

Overview of Ministerial Relief

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| <p>Definition IRPA 42.1</p> <p>Inadmissibilities requiring MR:</p> <p>s. 34(1) Security</p> <p>s. 35(1) Human or International Rights Violations</p> <p>s. 37(1) Organized Criminality</p> <p>Non-delegable authority</p> <p>The Minister's reasons</p> <p>Jurisprudence</p> | <p>MINISTERIAL RELIEF (MR):</p> <p>Persons inadmissible to Canada on the grounds of security, organized criminality and certain provisions related to war crimes or crimes against humanity may be granted an exemption from that inadmissibility – commonly referred to as “relief” – by the Minister of Public Safety if the Minister is satisfied that it is not <i>contrary</i> to the national interest. [Prior to the June 20, 2013 <i>Faster Removal of Foreign Criminals Act</i>, the MR provisions were contained in IRPA 34(2), 35(2), 37(2)(a) → the individual's <i>presence in Canada</i> would not be <i>detrimental</i> to the national interest]</p> <p>A granting of relief is a declaration that the matters which would normally constitute inadmissibility under IRPA do not do so in the individual's case.</p> <p>a. an act of espionage against Canada or contrary to Canada's national interest b. subversion by force of any government c. terrorism d. danger to the security of Canada e. violence that could endanger lives or safety in Canada f. member of an organization that engages, has engaged or will engage in s. 34(1)(a), (b), or (c)</p> <p>a. committed/complicit in crimes against humanity or war crimes * not eligible for MR b. prescribed senior official in a government that has or is engaged in terrorism, systematic or gross human rights violations, genocide, war crimes or crimes against humanity [regimes currently designated by the Minister of PSEP under subsections 6(3) to (5) of the <i>Crimes Against Humanity and War Crimes Act</i>: Bosnian Serb, Somalia (Siad Barre), Haiti (military governments), Afghanistan (Marxist and Taliban regimes), Iraq (Saddam Hussein and Ahmed Hassan Al-Bakr), Rwanda (Habyarimana and interim regimes), FRY/Serbia (Milosevic), Ethiopia (Mengistu)] c. a foreign national who is subject to international sanctions</p> <p>a. member of an organization engaged in organized criminal activity b. engaging in transnational people smuggling, human trafficking or money laundering / proceeds of crime</p> <p>IRPA subsection 6(3) prohibits the Minister from delegating this decision to officials. Because applicant submissions are complex and voluminous, the CBSA Ministerial Relief Unit (MRU) provides recommendations on whether the Minister should grant or deny relief.</p> <p>The Minister's decision is subject to judicial review by the courts. When the Minister adopts the CBSA recommendation, it is deemed to constitute the reasons for the decision. If the Minister's decision is counter to the CBSA's recommendation, the Federal Court (FC) has stipulated that written reasons for the Minister's decision must be provided.</p> <p>Historically, the majority of the Minister's decisions to deny relief have been challenged. Since 2002, the parameters of the assessment of national interest – commonly referred to as the “legal test” – have been significantly impacted by court rulings related to both admissibility and MR cases.</p> |
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In some cases, the courts have provided valuable clarity that continues to apply today. For instance:

- The burden of proof does not rest with the Minister or the CBSA but with the individual seeking MR to satisfy the Minister that relief is warranted, notwithstanding the applicant's inadmissibility.
- Because MR is a discretionary authority at the Ministerial level, the courts have generally recognized that the Minister's decision should be given a high level of deference.
- MR is not meant to review the original inadmissibility finding.
- MR should be exceptional but must not be illusory: While there is a national interest in preventing foreign nationals who are inadmissible on the most serious grounds from being in Canada – and therefore the granting of MR should be exceptional – the Minister cannot deny MR solely on the grounds that an individual committed the act that made them inadmissible and that requires Ministerial relief to overcome it (i.e., they can't be denied relief solely for the same reason(s) that led to the finding of inadmissibility).

However, evolving jurisprudence has substantially modified or even reversed the direction of the MR legal test several times in recent years, leading to lengthy program and legal reevaluations and multiple rewrites and redeterminations on MR recommendations in process or previously decided by the Minister. This has hampered the CBSA's ability to manage an aging inventory of cases.

Agraira MR case

In particular, judgements rendered between 2009 and 2013 by the Federal Court (FC), the Federal Court of Appeal (FCA) and the Supreme Court of Canada (SCC) on the Minister's refusal to grant relief to Mr. Ramadan Agraira (*Agraira*) not only influenced the CBSA's approach to assessing relief applications, but also led to new legislation.

FC 2009

Prior to March 2011, the Minister was required to balance a broad range of competing factors – including humanitarian and compassionate (H&C) elements, Canada's international humanitarian obligations, and international treaties signed by Canada (such as the *UN Convention Against Torture* or the *UN Refugee Convention*) – and only deny relief in those cases where there was a demonstrated "net detriment" to Canada's national interest.

FCA 2011

In March 2011, the FCA overturned the Federal Court's 2009 dismissal of the Minister's refusal of the *Agraira* MR application. The FCA ruled that MR was not a net detriment test, H&C elements were irrelevant, and that the Minister needed to only consider factors related to national security and public safety (NSPS) when assessing national interest.

The FCA *Agraira* ruling also clarified that the Minister was not constrained to only considering whether the applicant poses a current or future danger to the public or security of Canada (i.e., the absence of danger would not in itself justify relief from inadmissibility and the Minister is not required to find the person a danger in order to deny relief).

These were significant developments, and subsequent MR recommendations applied the FCA's narrow interpretation of national interest as its legal test, resulting, in 2012, in the highest number of MR decisions (31) in a calendar year.

Changes to IRPA MR provisions (2013)

Seven additional decisions had been signed and numerous recommendations were en route to the Minister when, on June 19, 2013, the *Faster Removal of Foreign Criminals Act* (FRFCA or

SCC 2013 Agraira
decision

Bill C-43) codified in law the FCA approach regarding the (limited) factors that the Minister was obligated to assess. It also (in response to an earlier review of the breadth of certain IRPA inadmissibility provisions) created an explicit authority to allow the Minister to grant relief on his own initiative, without requiring an application [IRPA 42.1(2)].

The FRFCA also removed future H&C eligibility for persons who are inadmissible on grounds that can be overcome by MR (Immigration, Refugees and Citizenship Canada continues to process the H&C applications for MR applicants who had H&C requests pending prior to the new law).

However...

The following day (June 20, 2013), the Supreme Court (SCC) released its ruling upholding the Minister's 2009 decision to deny relief to Mr. Agraira, but disagreed with some of the FCA's reasoning – in particular, that the Minister is only required to consider NSPS factors. While the SCC concluded that the predominant considerations for the Minister are indeed related to NSPS, it ruled that there are a number of other elements that the Minister may be required to assess.

The court did state that Ministerial relief is not intended to be an alternative form of humanitarian review. However, it left some ambiguity with respect to "a broad range" of undefined "personal factors" that it said may be relevant to determining whether the applicant's presence would be detrimental to the national interest, and could not necessarily be excluded. As a result, many applicants are essentially presenting what they would previously have identified as H&C arguments as "personal factors" that they cite as evidence that they do not present a threat/danger to Canadians.

The SCC also noted that the Minister's assessment of national interest should take into consideration the objectives of IRPA and be interpreted in the context of Canada as a parliamentary democracy committed to protecting fundamental values of the Charter and meeting Canada's international obligations [e.g., international humanitarian/refugee obligations and treaties signed by Canada (such as the *UN Convention Against Torture* or the *UN Refugee Convention*)].

The SCC *Agraira* decision resulted in a lengthy MR program and legal reevaluation and a much more complex legal test than any preceding one. There was a need to significantly reassess and rewrite many in-process or recently-finalized recommendations.

In addition, in light of the nature of the SCC ruling, in January 2014, the Prime Minister agreed that the 255 undecided cases that had remained in the inventory and 17 cases (the majority previously-decided by the Minister) that were before the courts at the coming into force (CIF) of C-43 would be processed under the former IRPA MR provisions coupled with the SCC interpretation of national interest, rather than under the narrower C-43 test as initially envisaged.

In response to the CBSA disclosing draft recommendations to applicants for procedural fairness purposes, applicants continue to provide submissions raising novel legal arguments that must be carefully addressed to avoid inadvertently setting an adverse precedent.

Residual concerns:

Failure to adequately demonstrate that consideration was given to every potentially relevant argument put forth by an applicant or to sufficiently substantiate the reasons for an MR refusal could jeopardise the post-SCC litigation success rate. Thus far, the FC has upheld all of the Minister's post-SCC decisions (a 100% success rate vs. an average of 28% in the 10 years prior to the SCC ruling) and strongly endorsed the CBSA's assessments.

Future court decisions will continue to have a potential impact on the legal environment and the success of inventory reduction efforts. Any ruling that significantly differs from the *Agraira* SCC decision will likely result in a new legal test and the need to reassess numerous files.

Courts will likely expect to see the continued application of *Agraira* SCC guidance regarding the meaning of national interest and national security and public safety (NSPS) when the Bill C-43 test, which is much narrower, begins to be used. Assessments, therefore, will remain more complex than anticipated when C-43 was drafted.

Due to the size of the inventory, CBSA will be applying the SCC *Agraira* interpretation of the former IRPA (pre-C-43) MR provisions for several years.

There is an increasing risk of *mandamus* applications (asking the Court to order the Minister to make a decision, usually by a specified date) as the inventory ages.

In March 2017, new regulations established procedures for MR applications, including:

- how to submit an MR request (via a new mandatory application form)
- when an application may be submitted (e.g., once a final inadmissibility determination has been made)
- when a case may be closed (e.g., if a person is found to be admissible, has obtained PR status, or repeatedly failed to respond to the CBSA)

These regulations provide greater transparency for applicants (via the detailed application form and guide); should slow inventory growth and increase efficiency by avoiding lengthy processing of incomplete or unnecessary applications; and, enhance inventory management by enabling closure of files where the individual has abandoned the application or no longer requires MR.

Regulatory
amendments

Bosse, Julie

From: Campbell, Jamison
Sent: April 28, 2017 06:15 PM
To: Vansickle, Tracey; Ismail, Naureen; Calma, Gordan; Hanton, Ashley; Gloster, Craig; Delaney, Irys
Subject: Re: Files Closed, and Some Questions

I think the deceased person situation lends itself well to the abandoned category with a supplementary note. The situation of an applicant dying has only occurred twice to my knowledge.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey
Sent: Friday, April 28, 2017 5:26 PM
To: Ismail, Naureen; Calma, Gordan; Campbell, Jamison; Hanton, Ashley; Gloster, Craig; Delaney, Irys
Subject: RE: Files Closed, and Some Questions

Hi Naureen,

Please find below my responses to your questions.

1. Irys – I started to review the updates that you made on Wednesday to the French template letters and noticed with the first one that it appears that my changes were incorporated but there are still a number of spacing issues (with some new ones added because of the changes). Would you mind doing another review to fix those (I'll leave them on your desk), and then, Naureen, would you please do a final review? Sometimes it takes a second set of eyes to catch small things like that. As we discussed a bit earlier, now that there will be a fluently bilingual manager, perhaps Julie could do a quick review of the letters.
2. I'm in agreement with Gordan and Jeff's messages from Wednesday – i.e., that we can only close those files either when the person is landed, or by proceeding to finalize the MR application despite the fact that H&C has been granted to exempt them from that inadmissibility.
3. Re NCMS dispositions, I agree that none of the current options are applicable to the files that have been closed recently, and it doesn't make sense to record them under a misleading category and then have to change them later. Would you please contact the NCMS user support folks to see what the requirements are to modify and add options to the drop-down lists for the available dispositions? For accuracy in capturing statistics, it would be helpful if we had options that mirror the regulations, but plain language is still important for anyone in the field who is trying to determine the status of the file. Perhaps something along the lines of the following (not sure if the JR ones are too long):

Application Abandoned R 24.4(a)

Application Withdrawn R 24.4(c)

Inadmissibility decision under judicial review R 24.4(d) – could be combined with the removal order since they are the same paragraph but we could get asked at some point to differentiate between them for stats purposes

Inadmissibility deemed unfounded SOR/2017-38, s. 5(1)(a)

Permanent residence granted R 24.4(b)

Removal order under judicial review R 24.4(d)

Do people think that we need a separate category for "Person Deceased" or that it could be counted among the abandoned applications?

Thanks,

Tracey Vansickle

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From: Ismail, Naureen

Sent: April 25, 2017 11:39 AM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>; Delaney, Irys <Irys.Delaney@cbsa-asfc.gc.ca>

Subject: RE: Files Closed, and Some Questions

Hi everyone,

Our third batch of file closed letters will be going out this morning, which brings our inventory down to 291 files (a decrease of 9.35% since the beginning of fiscal)! Gordan, Ashley, and Jamison, thanks so much for your help with the letters! ☺

Tracey, I have three outstanding items I need you to please advise on, so that I can finalize some things:

- 1) Have you had a chance to review and approve the French template letters Irys was editing? We can close one more file, but we need to send the applicant a letter in French.
- 2) Are we in agreement with Jeff's interpretation of how to deal with H&C exemptions? If so, I'll remove the two files where the applicant was granted an H&C exemption, but not PR status, from the list of files we can close.
- 3) How would you like us to close these files in NCMS? My original email with the current NCMS options is the first email in the chain below, for your reference.

Please let me know if you have any questions or concerns.

Thanks! ☺

Naureen Ismail

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From: Ismail, Naureen
Sent: April 12, 2017 5:32 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>
Subject: RE: Files Closed, and Some Questions

Hi everyone!

Just a heads up, the second batch of file closed letters went out today, which puts our inventory at 301 files – a 6.23% decrease from the beginning of fiscal ☺ The last batch of letters should be sent out in the next week or so, barring any unforeseen circumstances!

Tracey, as per my second question in the email below, how would you like us to proceed with closing these files in NCMS?

Jamison and Ashley, just to keep you guys looped in, I've attached the email with the request Gordan put together, and Jeff's input.

Please let me know if you have any questions or concerns.

Thanks ☺

Naureen Ismail

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From: Ismail, Naureen
Sent: April 6, 2017 2:23 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Subject: Files Closed, and Some Questions

Hi Tracey,

Our first ten file closed letters (pursuant to R24.4(b)) were sent out this morning, which equates to a 3.12% reduction of our inventory. Based on the time it took to get this batch out, I would be comfortable in saying we can get the second batch of letters sent out by 18 April 2017, at the latest (taking into account the Town Hall, and Easter weekend); I will keep you apprised.

A couple of questions for you:

1)

- 2) We need to determine how we'll be closing the MR process in NCMS for these applicants. The screenshot below shows the four dispositions currently available to close the MR process, none of which are technically correct. How would you like us to proceed?

Search

☒ Incremental Search

Search For: Search

Application Abandoned
Application Withdrawn
Inadmissibility Deemed Unfounded
Person Deceased

OK Cancel

Thank you,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
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Bosse, Julie

From: Robertson, Jeff
Sent: April 26, 2017 04:49 PM
To: Calma, Gordan; StMarseille, Richard; Vansickle, Tracey
Cc: Ismail, Naureen; Campbell, Jamison; Gloster, Craig
Subject:

Hello Gordan,

jeff

From: Calma, Gordan
Sent: April 26, 2017 12:00 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Robertson, Jeff <Jeff.Robertson@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>
Subject:

Tracey:

Thanks.

Gordan

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: StMarseille, Richard
Sent: Tuesday, April 25, 2017 10:47 PM
To: Vansickle, Tracey
Cc: Robertson, Jeff; Calma, Gordan; Ismail, Naureen; Campbell, Jamison; Gloster, Craig
Subject: RE:

Thanks Tracey,

From: Vansickle, Tracey
Sent: April 25, 2017 10:15 PM
To: StMarseille, Richard
Cc: Robertson, Jeff; Calma, Gordan; Ismail, Naureen; Campbell, Jamison; Gloster, Craig
Subject:

Hi Richard,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
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From: Robertson, Jeff
Sent: April 7, 2017 3:18 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject:

Tracey,

Please let me know if I have missed anything.

Happy to discuss,

jeff

From: StMarseille, Richard
Sent: April 7, 2017 1:09 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Robertson, Jeff <Jeff.Robertson@cbsa-asfc.gc.ca>

Subject: I

Hi Tracey,

Tks

Richard

Richard St Marseille

a/Director

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From: Vansickle, Tracey

Sent: April 7, 2017 12:52 PM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>

Subject:

Hi Richard,

Please let us know if you require clarification or further information regarding the above.

Thanks,

Tracey Vansickle

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Bosse, Julie

From: Calma, Gordan
Sent: April 25, 2017 02:02 PM
To: Vansickle, Tracey
Cc: StMarseille, Richard; Gloster, Craig; Campbell, Jamison; Ismail, Naureen
Subject: Two MR mandamus cases

Hi, Tracey.

The FB06s met briefly this morning to bring Craig up-to-speed on the latest developments, and to talk about the situation with MR files and the two pending *mandamus* cases. We have decided that Naureen will be in charge of the SS *mandamus* file and Craig will be in charge of the OA *mandamus* file as Jamison, Ashley and I are swamped with other files. As you are aware, we need to report on the progress of *mandamus* files as part of our newly instituted Monthly Performance Report (i.e., the revised "Look Ahead").

Craig and Naureen are currently preparing a Rule 9 response for both cases, and will be dealing with Rule 17 requirements/CTRs (with Jamison and me assisting them in the process).

time permitting, before they are
submitted to you for review.

Thank you.
Gordan

Gordan Calma
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Bosse, Julie

From: StMarseille, Richard
Sent: April 24, 2017 09:25 AM
To: Campbell, Jamison
Cc: Calma, Gordan; Vansickle, Tracey; Hanton, Ashley
Subject: RE: Min Relief - priority requests

Yes.

And this as a new Q on age as well, which Ashley just provided.

As requested. The average age is **7.8**, but we've rounded it to **8** in previous stats to Sr. Mgmt.

Let me know if you need anything else.

| Active Ministerial Relief Cases | |
|--|----------------|
| 1996 | 1 |
| 2000 | 2 |
| 2001 | 1 |
| 2002 | 10 |
| 2003 | 24 |
| 2004 | 12 |
| 2005 | 17 |
| 2006 | 17 |
| 2007 | 14 |
| 2008 | 26 |
| 2009 | 35 |
| 2010 | 40 |
| 2011 | 28 |
| 2012 | 9 |
| 2013 | 12 |
| 2014 | 15 |
| 2015 | 20 |
| 2016 | 15 |
| 2017 | 3 |
| TOTAL | 301 |
| Average age | 8 years |

Richard St Marseille

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From: Campbell, Jamison
Sent: April 24, 2017 9:23 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: RE: Min Relief - priority requests

Richard, please see attached.

Do you also need the draft that was disclosed, the link to the article and the links to the regs as Peter has requested? Or has that been provided?

Thanks,

Jamison

Jamison Campbell

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From: StMarseille, Richard
Sent: April 24, 2017 9:04 AM
To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests
Importance: High

Hi Jamison,

As discussed, please action asap by answering these questions in tracked changes to what we sent up last Friday.

Ops is doing the chronos so you don't need to worry about those; also, don't worry about the backlog strategy question either.

Tks

Richard St Marseille

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From: Lutfallah, Jennifer
Sent: April 24, 2017 8:44 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests

Jennifer Lutfallah
Director General | Directrice-générale
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From: Hill, PeterD(CBSA)
Sent: April 24, 2017 8:33 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>
Subject: Re: Min Relief - priority requests

Did Agency provide applicant w draft MR recommendation by April 16, 2017? If yes, pls send me copy.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:23 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Re: Min Relief - priority requests

Hi Jennifer - pls also send me link to the new MR regs.
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:16 AM

To: Lutfallah Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Min Relief - priority requests

'Morning Jennifer:

I reviewed the materials on weekend - very helpful.

For this morning to assist my prep:

Plse send me the recent article on the MR case that has attracted Mino attention.

Momenzadeh-Tameh's case?

What is Rule 9 (ref to receipt by MRU April 19, 2017 (ref Q4 on the Qs+As v2)?

Plse send me chrono

Plse send me chrono

Expect Minister may be interested in our strategy to deal with the backlog, incl so as to avoid more mandamus.

Alex - plse schedule phonecall 10:30 - 11am bwn me and Jennifer today so we can discuss MR / any 'loose ends.'

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

Bosse, Julie

From: Ott, Lydia
Sent: April 21, 2017 02:11 PM
To: Vansickle, Tracey
Subject:

Lydia

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Dragaitis, Kristina <Kristina.Dragaitis@justice.gc.ca>
Sent: Friday, April 21, 2017 1:52 PM
To: Engel, Daniel: JUS / JUS; Ott, Lydia
Cc: Lefebvre, Manon
Subject:

k
Senior Counsel / Avocate-conseil
Immigration Law Division / Division du droit de l'immigration
Ontario Regional Office / Bureau Régionale de l'Ontario
Department of Justice Canada / Ministère de la Justice du Canada
Exchange Tower / la tour Exchange
130 King St. W., Suite 1900 / 130, rue King Ouest, Pièce 1900
Toronto Ontario
M5X 1K6
Tel. / tél: 416 952-6992
Fax / téléc: 416 954-8982
kristina.dragaitis@justice.gc.ca

From: Engel, Daniel
Sent: April 21, 2017 1:31 PM
To: Ott, Lydia (CBSA) <Lydia.Ott@cbsa-asfc.gc.ca>; Dragaitis, Kristina <Kristina.Dragaitis@justice.gc.ca>
Cc: Lefebvre, Manon (CBSA) <Manon.Lefebvre@cbsa-asfc.gc.ca>
Subject:

Hi Lydia,

Daniel Engel
Department of Justice
416-952-5008

Protected by solicitor-client privilege

From: Ott, Lydia [<mailto:Lydia.Ott@cbsa-asfc.gc.ca>]
Sent: 2017-Apr-21 12:13 PM
To: Engel, Daniel <Daniel.Engel@justice.gc.ca>; Dragaitis, Kristina <Kristina.Dragaitis@justice.gc.ca>
Cc: Lefebvre, Manon (CBSA) <Manon.Lefebvre@cbsa-asfc.gc.ca>
Subject:

Forgot to include Kristina
Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ott, Lydia
Sent: Friday, April 21, 2017 11:53 AM
To: Engel, Daniel: JUS / JUS
Cc: Lefebvre, Manon
Subject:

Daniel and Kristina,

Thanks,

Lydia
Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey
Sent: Friday, April 21, 2017 11:44 AM
To: Ott, Lydia
Subject:

Hi Lydia,

Thanks!

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

Bosse, Julie

From: Calma, Gordan
Sent: April 21, 2017 01:53 PM
To: StMarseille, Richard
Cc: Vansickle, Tracey; Campbell, Jamison; Ismail, Naureen; Ducharme, Nyiri
Subject: RE: Urgent - MR Fact Sheet
Attachments: Ministerial Relief – Inventory and Litigation (April 21, 2017).docx

Hi, Richard.

As requested, please find attached the MRU's response to the PO questions below. Please note that no information on leave or JR dates is available for the two new *mandamus* cases.

If we get the info before Jennifer has signed off, we can add it or ask DGO to add it.

Thank you.
Gordan

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

Conseiller principal en programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 21, 2017 12:33 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: Fw: Urgent - MR Fact Sheet
Importance: High

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Sent: Friday, April 21, 2017 10:46 AM
To: Vansickle, Tracey
Cc: StMarseille, Richard
Subject: FW: Urgent - MR Fact Sheet

Hi Tracey,

As discussed, please see urgent tasking below for a one-pager on the items listed, and anything else that will provide an overview of the current litigation environment and current realities of the MR program.
Please BF to DO as soon as possible.

Many thanks,
Nyiri

From: Henderson, Lana
Sent: April 21, 2017 10:42 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: FW: Urgent - MR Fact Sheet
Importance: High

Hi Richard,

Please see urgent request below for a one-pager MR fact sheet.

Please BF to DGO at 13:00 today.

Thanks,
Lana

Lana Henderson

A/Senior Program Officer, Programs Branch
Canada Border Services Agency / Government of Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tel: 613-952-7203 / TTY: 866-335-3237

Agente principal de programme p.i., Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tél: 613-952-7203 / ATS: 866-335-3237

From: Patrice, France
Sent: April 21, 2017 10:40 AM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>
Subject: FW: Urgent - MR Fact Sheet
Importance: High

Lana,

The PO is requesting that Programs prepare a one-pager / fact sheet on MR, to address the following:

- Current backlog (pre and post new regulations coming into force)

Current backlog: 301 (no new applications since the coming-into-force of the MR regs have been accepted).

- How many MR files are in the MO for a decision, and how many will be provided this year.

4 MR files are currently in the MO for a decision. The MRU anticipates to provide between 8 and 10 finalized MR recommendations to the MO this year. This may be impacted by: changes in file prioritization with respect to any new and current litigation (e.g., mandamus applications, court-ordered redeterminations, etc.), extensions requested by applicants to provide post-disclosure submissions, submissions provided by applicants that may necessitate significant revisions and/or re-disclosure, etc.

Recent Court Order Decision on Mandamus Application (overall timelines, what happens if no decision rendered in time, when can the Minister expect to see the case etc.)

- Other Mandamus Applications filed (how many, when will they be heard...)

As far as the MRU is aware, the following two (2) *mandamus* applications were filed with the Federal Court following the ruling in *Momenzadeh-Tameh*:

Anything else to provide an overview of the current litigation environment and current realities of the MR program.

Since the coming-into-force of the MR regulations on March 10, 2017, the MRU has successfully closed 20 MR applications for applicants who have obtained permanent resident status. This reduced the inventory numbers from 321 to 301 active applications. The MRU expects to close an additional 10 cases by the end of April, 2017, which will reduce the inventory to 291 cases. Of note, pursuant to the new regulatory amendments, the MRU has also returned unprocessed 100% of MR applications received post-coming-into-force of the MR regs.

While working to reduce its inventory of cases, the MRU is currently experiencing a high volume of work specifically relating to the March 10, 2017 coming-into-force of MR regulations. Moreover, following the unfavourable FC ruling in *Momenzadeh-Tameh*, the MRU has been experiencing an increased number of status update requests from applicants, counsel and MPs. In light of comments made by the ruling judge pertaining to reasonable timeframes for MR decisions, several of the recent inquiries refer to the age of the application and request or demand that a decision be rendered by the Minister.

As stated above, if a court-ordered deadline is not met, the Minister may be held in contempt of court.

We will need this by 2 pm. today

Merci,
France

Ministerial Relief – Inventory and Litigation April 21, 2017

Q1: "Current backlog (pre and post new regulations coming into force)?"

Current backlog: 301 MR applications (no new applications since the coming-into-force of the MR regulations have been accepted for processing).

Q2: "How many MR files are in the MO for a decision, and how many will be provided this year? "

Four MR files are currently in the MO awaiting a decision.

The MRU anticipates to provide between 8 and 10 finalized MR recommendations to the MO this year. This may be impacted by: changes in file prioritization with respect to any new and current litigation (e.g., *mandamus* applications, court-ordered redeterminations, etc.), extensions requested by applicants to provide post-disclosure submissions, submissions provided by applicants that may necessitate significant revisions and/or re-disclosure, etc.

Q3: "Recent Court Order Decision on Mandamus Application (overall timelines, what happens if no decision rendered in time, when can the Minister expect to see the case etc.)

Other Mandamus Applications filed (how many, when will they be heard...)"

As far as the MRU is aware, the following two (2) *mandamus* applications were filed with the Federal Court following the ruling in *Momenzadeh-Tameh*:

Q4: "Anything else to provide an overview of the current litigation environment and current realities of the MR program?"

Since the coming-into-force of the MR regulations on March 10, 2017, the MRU has successfully closed twenty (20) MR applications for applicants who have obtained permanent resident status. This reduced the inventory numbers from 321 to 301 applications. The MRU expects to close an additional 10 cases by the end of April, 2017, which will reduce the inventory to 291 cases. Of note, pursuant to the new regulatory amendments, the MRU has also returned, unprocessed, 100% (2 out of 2) of MR applications received post-coming-into-force of the MR regulations (for non-compliance with the new regulations).

Though continuing to work toward reducing its inventory of cases, the MRU is currently experiencing a high volume of additional requirements, specifically relating to the March 10, 2017 coming-into-force of MR regulations. Moreover, following the unfavourable FC ruling in *Momenzadeh-Tameh*, the MRU has been experiencing an increased number of status update requests from applicants, counsel and MPs. In light of comments made by the ruling judge pertaining to reasonable timeframes for MR decisions, several of the recent inquiries refer to the age of the application and request/demand that a decision be rendered by the Minister.

As stated above, if a court-ordered deadline is not met, the Minister may be held in contempt of court.

Bosse, Julie

From: Calma, Gordan
Sent: April 7, 2017 05:13 PM
To: Vansickle, Tracey; Ismail, Naureen
Subject:

From: Vansickle, Tracey
Sent: April 7, 2017 4:45 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: FW: For approval: Request for a legal opinion - MR regs

From: Robertson, Jeff
Sent: April 7, 2017 3:18 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE:

Tracey,

Bosse, Julie

To: Robertson, Jeff
Cc: Ducharme, Nyiri; Calma, Gordan; Naureen.Ismail@cbsa-asfc.gc.ca;
Richard.StMarseille@cbsa-asfc.gc.ca
Subject: RE:

Thanks, Jeff.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Robertson, Jeff
Sent: April 7, 2017 3:18 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject:

Tracey,

Bosse, Julie

From: Campbell, Jamison
Sent: April 7, 2017 05:38 AM
To: Vansickle, Tracey
Subject:

Hi Tracey,

Thanks,

Jamison

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Park, Helen <helen.park@justice.gc.ca>
Sent: Thursday, April 6, 2017 3:51 PM
To: Vansickle, Tracey; Frizzell, Marty; Ott, Lydia; Campbell, Jamison
Cc: Scott, Jennifer: JUS / JUS
Subject: RE:

PROTECTED BY SOLICITOR-CLIENT PRIVILEGE

Helen Park

From: Park, Helen
Sent: Friday, March 17, 2017 10:40 AM
To: 'Vansickle, Tracey' <Tracey.Vansickle@cbsa-asfc.gc.ca>; 'Frizzell, Marty' <Marty.Frizzell@cbsa-asfc.gc.ca>; Ott, Lydia (CBSA) <Lydia.Ott@cbsa-asfc.gc.ca>; 'Campbell, Jamison' <Jamison.Campbell@cbsa-asfc.gc.ca>
Cc: Scott, Jennifer (BCRO) <Jennifer.Scott@justice.gc.ca>
Subject:

PROTECTED BY SOLICITOR-CLIENT PRIVILEGE

Thank you very much for your assistance throughout.

Helen Park
Senior Counsel, Public Safety, Defence and Immigration
Department of Justice Canada / Government of Canada
helen.park@justice.gc.ca / Tel: 604-666-6998 / TTY : 604-666-2639

Avocate-conseil, Sécurité publique, Défense et Immigration
Ministère de la Justice / Gouvernement du Canada
helen.park@justice.gc.ca / Tél.: 604-666-6998 / ATS : 604-666-2639

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Document protégé par le privilège du secret professionnel de l'avocat: ne divulguez pas

Bosse, Julie

Subject: RE: MR Regs Tracker

Yes, I think a group discussion would be a good idea. Looking at a couple of the examples that you have given in response to my questions, I'm not sure how user-friendly an overview chart is if someone has to look through multiple tabs to determine the status of the file. E.g. "For instance, if the "Action" is "Awaiting Response from Applicant", the likely tab for further information would be the "Interest Letters" tab, where one can find the dates on which letters were sent to applicants."

I don't understand the third sentence of your first explanation. Why would we only track the "closed per C-43" information in the inventory spreadsheet when this document is being developed specifically to capture the C-43 regs information?

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Ismail, Naureen

Sent: March 27, 2017 5:48 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>

Subject: RE: MR Regs Tracker

Thanks for the feedback and explanations, Tracey. Gordan and I have discussed, and will try to address your specific questions/comments:

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

Conseillère principale en programme – Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

From: Vansickle, Tracey
Sent: March 27, 2017 4:40 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Subject: RE: MR Regs Tracker

My comments are in purple, embedded into Gordan's comments below.

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Hanton, Ashley
Sent: March 27, 2017 2:49 PM
To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Cc: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: RE: MR Regs Tracker

The percentages for new applications is straight forward, it's the percentage for files withdrawn/abandoned this is unclear. I'm assuming it would be the percentage of the total inventory (as of the start of the year – Jan 1st?) that were withdrawn/abandoned that we need to record? Since the inventory total is always in flux, we just need to establish our baseline for the stats percentages.

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Ismail, Naureen
Sent: March 27, 2017 2:26 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Cc: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: RE: MR Regs Tracker

Thanks, Gordan! ☺

Thanks for clarifying the percentages – that definitely makes it easier to calculate ☺ For the files we're closing right away, there has to be a measure/metric under which we can report the information, we'll just need to find a way to let people know we're doing a bunch of work...

Thank you,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

From: Calma, Gordan
Sent: March 27, 2017 11:51 AM
To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Cc: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: RE: MR Regs Tracker

Hi, Naureen and Ashley!

Tracey, if you disagree with any of my responses above, please let us know. Most of them are simply my interpretations and I may be wrong... ☺

Thanks.

Gordan

Gordan Calma

Senior Program Advisor - Ministerial Relief Unit, Programs Branch

Canada Border Services Agency / Government of Canada

Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

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Agence des services frontaliers du Canada / Gouvernement du Canada

Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

From: Ismail, Naureen

Sent: March 24, 2017 5:42 PM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>

Cc: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>

Subject: MR Regs Tracker

Hi Tracey and Gordan,

Ashley and I have created an MR Regs Tracker, to keep track of everything we do, post-CIF of the MR regs (saved in the same folder as the MR Inventory spreadsheet).

When you have some time, would you both please take a look at the document, and let us know if there are any changes you would suggest to make it more user-friendly and/or to capture any information that we've missed?

With respect to the data we need to collect, Jamison recently sent out an email (which I've attached), highlighting the information we need to be tracking. Would either of you be able to offer any clarity with respect to the percentages we're supposed to be calculating? Are they looking for a percentage based on the inventory as it is now? At the beginning/end of the calendar year? At some other point in time?

As well, to clarify, are the applications we expect to close within the next month going to be reported? If so, will they be included with the withdrawn/abandoned applications?

A brief explanation for when you're looking at the tracker (Ashley, please let me know if I've missed anything, or explained anything incorrectly!):

"Overview" (the blue tab) – this is where we will list every file subject to any action under the new regs. The "Action" and "Legislative Grounds" columns contain drop-down lists restricting the type of information that can be entered for these fields. I'm currently working with Trevor (in IT) to get an update to Excel that will allow us to input drop-down calendars for all of the date fields. We were hoping to limit, as much as possible, any potential human error from manual updates to the tracker. Additionally, the drop-down options will hopefully give us sufficient consistency to be able to quickly filter the information for whatever we need to capture/report.

"Files to Close" (the green tab) – for now, I've just dumped a bunch of information into this sheet about the files we intend to close right away (contact information, counsel information, etc.).

"FC – Batches" (the second green tab) – this is where we will be recording all of our contacts with (and efforts to contact) applicants for whom we will be closing files. Again, I hope to be able to create drop-down calendars for the date fields. The "Method of Contact" columns contain drop-down menus.

"Interest Letters" and "IL – Batches" (the purple tabs) – once we decide on an approach for interest letters, the formatting of these sheets can be adapted to best suit our needs. For now, however, they're arranged in much the same way as the "FC – Batches" sheet. Ashley had a brilliant idea that I'm trying to implement whereby we would get a notification in our general inbox advising us of due dates for applicant responses, so we don't need to manually check the tracker every day for upcoming due dates (it's possible to do, but I think I need better instructions than I've been able to find... I'll play around with it some more on Monday).

"Reporting Stats" (the red tab) –

In column A, we've listed 6 pieces of information we hoped to capture (the three from the attached email, and three that we thought would be important to track). Ashley's created some formulas to capture information as soon as it's updated on any of the sheets in the tracker (so if you log, for instance, in "FC – Batches", that you've called an applicant, it'll automatically log that call in the stats tab). We may never be asked to report on how many phone calls we make or emails we send, but I think it's important for us to be able to demonstrate how much work we'll actually be doing to get letters sent to applicants (especially in cases where multiple contacts are required).

Please let me know if you have any questions, and if you feel the drop-down lists, and the tracker as a whole, sufficiently capture the information we would need to collect.

Thank you,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

Bosse, Julie

From: StMarseille, Richard
Sent: April 6, 2017 01:40 PM
To: Lutfallah, Jennifer; Vansickle, Tracey
Cc: Byrne, Patrick; Ducharme, Nyiri; Charbonneau, Karine
Subject: RE: MR proposed triage process: BN, deck, stats, Q&A
Attachments: MRU Staffing Requirements_Bilat_April_2017.docx

Hi Jennifer,

Attached you will find the MRU staffing status document, along with a proposal for support to seek ECLA approval.

This was intended for your bilat with the VP tomorrow, but it could also come in handy for your meeting on MR today.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: April 6, 2017 1:17 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>;
Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Charbonneau, Karine <Karine.Charbonneau@cbsa-asfc.gc.ca>
Subject: RE: MR proposed triage process: BN, deck, stats, Q&A

Tracey,
What about the speaking points that I requested? It is basically your email that you drafted on the issue following our meeting with Raquel

Please provide before 1:45

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement

Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Vansickle, Tracey
Sent: April 6, 2017 8:09 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: MR proposed triage process: BN, deck, stats, Q&A

Hi Jennifer,

As requested, attached is the April 2016 deck (with talking points) for the Minister on the proposed triage process. This plus the MR regs were presented as joint measures to streamline application processing and better manage the aging inventory.

Slides 1-5 are pretty much the standard background on MR that you've seen in other decks.

The proposed process is mapped out on slide 10.

I've attached some stats we did at the time (the second tab of charts is more user friendly but doesn't have as much info as the first), breaking down the inventory by different front-end triage criteria (type of inadmissibility, pre- or post-C-43, in Canada or overseas, age of application, length of time in Canada, listed entities, etc.), 1

I have also included responses to questions that Peter asked when he was preparing to brief the Minister. From what we were told, a detailed briefing was not provided in the end. Peter was travelling with the Minister and was scheduled to have 15 minutes to brief him on this proposal. Ultimately, I believe that it was the President who spoke to the Minister, but only for 5 minutes on the margins of another meeting. Therefore, he was given a few high-level talking points

and he indicated that he'd be open to that, but wanted more information on the actual proposal.

We then sent up a BN (attached) on inventory management seeking the Minister's concurrence on the proposed approach to "referring Ministerial relief (MR) cases for [his] consideration". As Richard mentioned yesterday, the initial conception – labelled an "expedited inventory reduction" proposal – had become an "inventory management" strategy (that essentially replicated what we were already doing).

I don't know that the Minister ever saw the deck or the process mapping. No response was ever received from the MO on the BN.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada

DIVISIONAL SUMMARY OF STAFFING STATUS AND IMMEDIATE GAPS

PROTECTED B

| Status / Employee | Group / Level | Position # | Funding | Action Required | Running FTE Count | FTE Total |
|---|---------------|------------|---------|---|-------------------|-----------|
| Ministerial Relief Unit | | | | | | |
| Indeterminate / Tracey Vansickle | FB-08 | | 1001 | No Action Required | 1 | |
| Indeterminate / Gordan Calma | FB-06 | | 1001 | No Action Required | 2 | |
| Indeterminate / Jamison Campbell | FB-06 | | 1001 | No Action Required | 3 | |
| Vacant Indeterminate / (Shawne Gervais LO assignment) | FB-06 | | 1001 | Position to Be Delimited when Vacated | 4.a. | |
| Indeterminate / Craig Gloster | FB-06 | | 1001 | No Action Required | 4.b. | |
| Indeterminate / Naureen Ismail | FB-06 | | 1001 | No Action Required | 5 | |
| Vacant Indeterminate | FB-04 | | 1001 | Replacement Staffing Required | 6 | |
| Indeterminate / Irys Delaney | FB-04 | | 1001 | No Action Required | 7 | |
| Indeterminate / Ashley Rodger | FB-04 | | 1001 | No Action Required | 8 | |
| Vacant Indeterminate | FB-04 | | 1001 | Replacement Staffing Needed | 9 | |
| Vacant Indeterminate | FB-02 | | 1001 | Replacement Staffing Needed | 10 | |
| Vacant Indeterminate | FB-02 | | 1001 | Replacement Staffing Needed | 11 | |
| Vacant Indeterminate | CR-04 | | 1001 | Replacement Staffing Needed ECLA Approval Received on Feb 15 | 12 | 12 |

- The Unit base salary funding at the start of the 2016-2017 fiscal year was for 12 FTEs.
- At P3, of 2016-2017, the unit was running at 9 FTEs of utilization (i.e. 75%).
- Currently, the unit is staffed with 7 FTEs (i.e. 58%) and one FB6 employee has signaled an intention to leave the unit, which would reduce utilization to 50%.

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•

•

Bosse, Julie

From: Richard, Jean-Francois
Sent: April 5, 2017 03:25 PM
To: Vansickle, Tracey
Cc: Richard, Jean-Francois
Subject: FW: TASKING BF to DGO 12pm Apr 6 - FW: Ministerial Relief: streamlined process
Attachments: Re: Update - Briefing of Chief of Staff on Ministerial Relief

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Tracey,

Are we on track for this task due today?

Thank you,
jf

From: Ducharme, Nyiri
Sent: April 4, 2017 1:57 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Richard, Jean-Francois <Jean-Francois.Richard@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: TASKING BF to DGO 12pm Apr 6 - FW: Ministerial Relief: streamlined process

Hi Tracey,

Please see tasking below and attached email for an update for Peter's review.
Please BF to DO COB April 5.

Many thanks,
Nyiri

From: Byrne, Patrick
Sent: April 4, 2017 1:12 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: TASKING BF to DGO 12pm Apr 6 - FW: Ministerial Relief: streamlined process

Richard,

Please see attached email from Peter.

Tasking: please provide an update (bullets/1 or 2 pages) for Peter's review.

BF to DGO 12pm April 6.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Mousseau, Pauline

Sent: April 4, 2017 11:07 AM

To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>

Subject: FW: Ministerial Relief: streamlined process

Hi Patrick,

See attached email from PH – please have an update (bullets are fine / one-two pager) prepared for Peter's review by April 7th 2pm.

Thank you,
Pauline

From: Brunatti, Andrew

Sent: April 4, 2017 11:00 AM

To: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>

Subject: RE: Ministerial Relief: streamlined process

Ok, thanks for confirming Pauline.

Andrew

From: Mousseau, Pauline

Sent: April 4, 2017 10:55 AM

To: Brunatti, Andrew <Andrew.Brunatti@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>

Subject: RE: Ministerial Relief: streamlined process

Hi Andrew,

Peter is adding this to the agenda for the next bilat with the Prez/EVP on April 11th.
The team is currently doing work on an update for this purpose.

Thanks,
Pauline

From: Brunatti, Andrew

Sent: April 4, 2017 9:15 AM

To: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>

Subject: Re: Ministerial Relief: streamlined process

Thanks Pauline; also don't forget the follow-up on

Andrew

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Mousseau, Pauline

Sent: Monday, April 3, 2017 6:35 PM

To: Brunatti, Andrew

Cc: Blanchard, NathalieX

Subject: Re: Ministerial Relief: streamlined process

Hello Andrew

I'm sorry for getting back so late in the day. I was not able to speak to the DG who would know this information yet, I will have something for you tomorrow.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Brunatti, Andrew

Sent: Monday, April 3, 2017 12:50 PM

To: Mousseau, Pauline

Cc: Blanchard, NathalieX

Subject: RE: Ministerial Relief: streamlined process

Thanks Pauline. The issue they were looking to have the Pres/EVP briefed on was specific to how IRCC was interpreting 'membership in an organization of concern,'

From: Mousseau, Pauline

Sent: April 3, 2017 11:16 AM

To: Brunatti, Andrew <Andrew.Brunatti@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>

Subject: FW: Ministerial Relief: streamlined process

Good morning Andrew,

I spoke with Mélanie last week on Min Relief, our team will provide a docket outlining the option for the EVP to review this week. I am expecting it today and Peter will review and any changes he requires will be done and sent off to EVPO, hopefully by tomorrow.

Thank you!

Pauline Mousseau

Strategic Advisor to Associate Vice-President, Programs Branch

Canada Border Services Agency / Government of Canada

pauline.mousseau@cbsa-asfc.gc.ca Tel: 613-954-7911

From: Mousseau, Pauline
Sent: March 30, 2017 1:40 PM
To: Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>
Subject: RE: Ministerial Relief: streamlined process

Hello,
We will have the option to you early next week (docket).

I will keep you posted.

Thank you,
Pauline

From: Maisonneuve, Mélanie
Sent: March 30, 2017 1:31 PM
To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Subject: Ministerial Relief: streamlined process

Bonjour,

Could you please provide an update as to the above-noted topic? When should the EVP receive an updated proposal?
Should we set-up a briefing?

Merci beaucoup!

Mélanie Maisonneuve
Chief of Staff | Chef de cabinet
Executive Vice President's Office | Bureau de la Première vice-présidente
Canada Border Services Agency | Agence des services frontaliers du Canada
191 Laurier Ave West, Ottawa, ON K1A 0L8 | 191 avenue Laurier ouest, Ottawa, ON K1A 0L8
melanie.maisonneuve@cbsa-asfc.gc.ca
Telephone | Téléphone 613-946-2987
Facsimile | Télécopieur 613-952-1851
Government of Canada | Gouvernement du Canada

Bosse, Julie

From: Hill, PeterD(CBSA)
Sent: April 3, 2017 01:56 PM
Subject: Re: Update - Briefing of Chief of Staff on Ministerial Relief

Follow Up Flag: Follow up
Flag Status: Flagged

Jennifer -

Thanks for the update.

Given that CoS has noted this, and combined with our current and ongoing effort to both prioritize and accelerate MR case management and processing, I'll put this on the agenda for Martin and my bilat with Pres / EVP April 11.

Plse continue to pursue the issue as you have outlined below --

Grateful for an update by cob Friday for my review this weekend.

In addition, I'll ask Alex to set up 20 mins on MR this week in view of the recent court case and possible broader implications for the MR inventory. I spoke with Tom today on margins of EC.

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Lutfallah, Jennifer
Sent: Monday, April 3, 2017 1:08 PM
To: Bolduc, Martin; Hill, PeterD(CBSA)
Cc: Blanchard, NathalieX; Mousseau, Pauline; Patrice, France
Subject: Update - Briefing of Chief of Staff on Ministerial Relief

Martin, Peter

I wanted to flag a topic of discussion that arose during our briefing with the Chief of Staff on Ministerial relief.

Jennifer Lutfallah

Director General | Directrice-générale

Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement

Programs Branch | Direction général des programmes

Canada Border Services Agency | Agence des services frontaliers du Canada

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Government of Canada | Gouvernement du Canada

Bosse, Julie

From: Ducharme, Nyiri
Sent: April 4, 2017 01:57 PM
To: Vansickle, Tracey
Cc: Richard, Jean-Francois; StMarseille, Richard
Subject: FW: TASKING BF to DGO 12pm Apr 6 - FW: Ministerial Relief: streamlined process
Attachments: Re: Update - Briefing of Chief of Staff on Ministerial Relief

Hi Tracey,

Please see tasking below and attached email for an update for Peter's review.
Please BF to DO COB April 5.

Many thanks,
Nyiri

From: Byrne, Patrick
Sent: April 4, 2017 1:12 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: TASKING BF to DGO 12pm Apr 6 - FW: Ministerial Relief: streamlined process

Richard,

Please see attached email from Peter.

Tasking: please provide an update (bullets/1 or 2 pages) for Peter's review.

BF to DGO 12pm April 6.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Mousseau, Pauline
Sent: April 4, 2017 11:07 AM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>
Subject: FW: Ministerial Relief: streamlined process

Hi Patrick,

See attached email from PH – please have an update (bullets are fine / one-two pager) prepared for Peter's review by April 7th 2pm.

Thank you,
Pauline

From: Brunatti, Andrew
Sent: April 4, 2017 11:00 AM
To: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Subject: RE: Ministerial Relief: streamlined process

Ok, thanks for confirming Pauline.

Andrew

From: Mousseau, Pauline
Sent: April 4, 2017 10:55 AM
To: Brunatti, Andrew <Andrew.Brunatti@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Subject: RE: Ministerial Relief: streamlined process

Hi Andrew,

Peter is adding this to the agenda for the next bilat with the Prez/EVP on April 11th.
The team is currently doing work on an update for this purpose.

Thanks,
Pauline

From: Brunatti, Andrew
Sent: April 4, 2017 9:15 AM
To: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
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Subject: Re: Ministerial Relief: streamlined process

Thanks Pauline; also don't forget the follow-up on

Andrew

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Mousseau, Pauline
Sent: Monday, April 3, 2017 6:35 PM
To: Brunatti, Andrew
Cc: Blanchard, NathalieX
Subject: Re: Ministerial Relief: streamlined process

Hello Andrew

I'm sorry for getting back so late in the day. I was not able to speak to the DG who would know this information yet, I will have something for you tomorrow.

Bosse, Julie

From: StMarseille, Richard
Sent: March 30, 2017 02:12 PM
To: Byrne, Patrick
Cc: Ducharme, Nyiri; Lutfallah, Jennifer; Soper, Lesley L; Henderson, Lana; Vansickle, Tracey
Subject: RE: TASKING BF to DGO 2pm Mar 31 -- FW: Ministerial Relief: streamlined process

Thanks Patrick

I'm assuming then that the docket will become an "information" docket, rather than a decision docket then (please confirm).

If so, we will start routing cases using the option 1 approach from today on.

Tks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Byrne, Patrick
Sent: March 30, 2017 2:04 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: TASKING BF to DGO 2pm Mar 31 -- FW: Ministerial Relief: streamlined process

Hi Richard,

Tasking: please update the docket as per Peter's notes. Routing should once again be to the EVP. CCM 885.

Please BF to DGO by 2pm March 31.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Mousseau, Pauline

Sent: March 30, 2017 1:41 PM

To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>

Subject: FW: Ministerial Relief: streamlined process

Hello please update the docket as instructed by note from Peter.

Prepare docket to go to EVP (RS)

You can use CCM 885.

BF: April 3rd 9am.

Thank you,
Pauline

From: Mousseau, Pauline

Sent: March 30, 2017 1:40 PM

To: Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>

Subject: RE: Ministerial Relief: streamlined process

Hello,
We will have the option to you early next week (docket).

I will keep you posted.

Thank you,
Pauline

From: Maisonneuve, Mélanie

Sent: March 30, 2017 1:31 PM

To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>

Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Subject: Ministerial Relief: streamlined process

Bonjour,

Could you please provide an update as to the above-noted topic? When should the EVP receive an updated proposal?
Should we set-up a briefing?

Merci beaucoup!

Mélanie Maisonneuve

Chief of Staff | Chef de cabinet

Executive Vice President's Office | Bureau de la Première vice-présidente

Canada Border Services Agency | Agence des services frontaliers du Canada

191 Laurier Ave West, Ottawa, ON K1A 0L8 | 191 avenue Laurier ouest, Ottawa, ON K1A 0L8

melanie.maisonneuve@cbsa-asfc.gc.ca

Telephone | Téléphone 613-946-2987

Facsimile | Télécopieur 613-952-1851

Government of Canada | Gouvernement du Canada

Bosse, Julie

From: Ducharme, Nyiri
Sent: March 30, 2017 02:10 PM
To: Vansickle, Tracey
Cc: StMarseille, Richard
Subject: RE: MR Status Report

Patrick followed up with VPO, they have some changes that they would like made – (table of contents) to EVP.

A tasking came down in this regard, which I will forward momentarily.

Thanks,
Nyiri

From: StMarseille, Richard
Sent: March 30, 2017 12:31 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE: MR Status Report

Hi Tracey,

At my bilat today, Jennifer indicated she wants us to start raising cases as soon as they're ready to go.

Nyiri – can you please follow up on the status of the MR docket on whether to add a table of contents or not so we know where it's at.

tk

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Vansickle, Tracey
Sent: March 30, 2017 10:49 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE: MR Status Report

Can we go ahead and send up the next cases as is, or do we still have to wait for a response regarding whether the EVP/President wants us to include the index or explanatory paragraph?

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: March 30, 2017 7:39 AM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: MR Status Report

Hi Tracey,

Could I start getting that monthly MR status report on the 1st of the Month starting this week please.

Not sure if you heard, but MR was on CBC radio this morning r.e. the case and 'unacceptable' delays in decisions rendered etc.

I'm sure we'll start getting pressure to start pumping out cases again, so would like to get a better sense of where we're at with the inventory and when we can start raising the next cases etc.

Tks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

Bosse, Julie

From: Lutfallah, Jennifer
Sent: March 30, 2017 12:31 PM
To: Vansickle, Tracey; StMarseille, Richard
Subject: FW: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

NEED RESPONSE IN 2 MINUTES

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
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jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Bolduc, Martin
Sent: March 30, 2017 12:28 PM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Subject: Tr: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Do we know how many out of the 359 + cases we have would meet this timeline

MB

Envoyé de mon smartphone BlackBerry 10 sur le réseau Rogers.

De: Ossowski, John <John.Ossowski@cbsa-asfc.gc.ca>
Envoyé: jeudi 30 mars 2017 12:20
À: Bolduc, Martin; Namiesniowski, Tina
Cc: Garbers, Raquel
Objet: FW: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Fyi – "could affect hundreds of cases"??

From: PSPMediaCentre / CentredesmediasPSP (PS/SP) [<mailto:ps.pspmediacentre-centredesmediaspsp.sp@canada.ca>]
Sent: March 30, 2017 11:58 AM
To: Today's News / Actualités (PS/SP)
Subject: RT: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Rough Transcript

Station: CBC News

Time/heure: 11:45 ET

Date: 2017-03-30

Summary: CBC News reported on the Federal Court of Canada's decision that **Public Safety Minister Ralph Goodale** must make a decision on a politically sensitive immigration case.

>> Suhanna: The federal court of Canada is forcing the **Minister of Public Safety** to start making more timely decisions on politically sensitive immigration cases. The court's chief justice says the **Minister** is obliged to act no matter how busy he is. Alison Crawford is in Ottawa with more.

>> Reporter: It's quite a withering judgment and starts off with federal court Chief Justice Paul Crampton saying -- now the case in question concerns an application for ministerial relief. People make these direct appeals for a second hearing to the **Minister of Public Safety** after they have been told they can't stay in Canada due to a criminal background or past membership in a bad organization. The thing is over the years, ministers have largely chosen not to make decisions on these sensitive cases. In the case before the court here, an Iranian man was denied permanent residence on the grounds that he was once a terrorist member in a group in Iran. He waited four more years for a decision from the **Public Safety Minister**. According to the ruling, **Minister Ralph Goodale** argued he can take as much time as he likes because he's busy. Chief Justice Crampton didn't buy that argument. He ordered **Goodale** to make a decision within the next few months and made it very clear that four years is the upper limit of reasonable delay. Immigration lawyers are not surprisingly welcoming the decision and say it could affect hundreds of cases currently before the minister.

>> Lawyer Lorne Waldman: Getting a decision that is as broad as this that sort of says four years is enough time for the **Minister** to render a decision is quite unusual because the court tries to make it very specific. If you read this decision, the court is sending a pretty clear message that **Minister**, if you have to make a decision, make it within four years.

>> Reporter: As for **Goodale**, a spokesperson for his department says the ruling is under review and the department is considering whether the whole process could be improved. Alison Crawford, CBC News, Ottawa.

Due to the nature of closed captioning, grammatical and editorial errors may be found within the attached transcript. Étant donné la nature du sous-titrage, il peut y avoir des erreurs grammaticales et de rédaction dans la transcription ci-attachée.

Questions? Please contact us at ps.pspmediacentre-centredesmediaspsp.sp@canada.ca.
Questions? Veuillez communiquer avec nous au ps.pspmediacentre-centredesmediaspsp.sp@canada.ca.

Sent to : !!INTERNAL; !!INTERNAL 2; CBSA Breaking News

Bosse, Julie

From: StMarseille, Richard
Sent: March 30, 2017 08:15 AM
To: Vansickle, Tracey
Subject: RE: Update - Briefing of Chief of Staff on Ministerial Relief
Attachments: Update - Briefing of Chief of Staff on Ministerial Relief

No prob. Jennifer gave us more time so I sent the attached this morning.

Jennifer also asked yesterday evening to make sure that if I or you etc. get any calls from the PO/Chief of Staff that we are not to speak to them directly, but re-route them to VPO.

Tks

Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Vansickle, Tracey
Sent: March 29, 2017 10:15 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: RE: Update - Briefing of Chief of Staff on Ministerial Relief

Hi Richard,

Sorry that I'm only seeing this now. I had to deal with a bit of an emergency. I expect that you likely had to send this to Jennifer already, but I'll provide my comments in case you haven't.

I think what you've written is excellent. I do have two concerns:

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: March 29, 2017 6:13 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: Update - Briefing of Chief of Staff on Ministerial Relief
Importance: High

Bosse, Julie

From: StMarseille, Richard
Sent: March 30, 2017 07:53 AM
Subject: Update - Briefing of Chief of Staff on Ministerial Relief
Attachments: RE: Tameh case (Momenzadeh-Tameh MR mandamus litigation)

Hi Jennifer,

See message you requested below.

I've added the red lines at the end of the update to reflect this morning's CBC radio report on the MR mandamus case.

Tks

Richard

Martin, Peter

Bosse, Julie

From: Vansickle, Tracey
Sent: March 30, 2017 01:42 AM
Subject: RE: Tameh case (Momenzadeh-Tameh MR mandamus litigation)

Hi Patrizia,

Please find below information on the litigation and the case background. Let me know if you require clarification or additional information.

Morteza MOMENZADEH-TAMEH v MPSEP, 2017 FC 288, Federal Court judgment

PROTECTED BY SOLICITOR-CLIENT PRIVILEGE (Litigation and Settlement References)

Issue: Media enquiry regarding the March 16, 2017 Federal Court (FC) judgment on the applicant's *mandamus* application asking the court to order the Minister to render a Ministerial relief (MR) decision within a specific time period.

Regards,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

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Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Giolti, Patrizia

Sent: March 29, 2017 4:18 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>

Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Frizzell, Marty <Marty.Frizzell@cbsa-asfc.gc.ca>; DesJardins, Veronique <Veronique.DesJardins@cbsa-asfc.gc.ca>; Case-Management, CBSA-NHQ <case-management@cbsa-asfc.gc.ca>

Subject: Re: Tameh case

Hi Tracey - apologies left the office. Can you provide me with a few bullets on this case? Reporter reached out directly to MO and MO is asking for case info...thanks

From: Vansickle, Tracey
Sent: Wednesday, March 29, 2017 4:10 PM
To: Giolti, Patrizia
Cc: Henry, David; Frizzell, Marty; DesJardins, Veronique; Case-Management, CBSA-NHQ
Subject: RE: Tameh case

Hi Patrizia,

Profuse apologies. I've just come from briefing the PO and am only seeing this now. Do you want me to call you to discuss this if it's not too late?

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

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Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Case-Management, CBSA-NHQ
Sent: March 29, 2017 3:20 PM
To: Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; DesJardins, Veronique <Veronique.DesJardins@cbsa-asfc.gc.ca>
Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Frizzell, Marty <Marty.Frizzell@cbsa-asfc.gc.ca>
Subject: FW: Tameh case

Hi Patrizia,

We here at Case Review do not have a case chronology for this case. Please let me know if you would like to request one. Although, given the time, I don't think we could get one to you until tomorrow at the earliest.

The short answer to your question is that Ministerial relief applications are processed here at the CBSA (so a PS Min relief). I've included Tracey Vansickle on this email for any questions you may have concerning this case and the process as she is the manager of that area. I've also included representatives from our Litigation Management Unit should you have a need for clarification on the litigation front.

Thank you,

Tanya

Tanya MacDonald

A/Senior Program Advisor, Case Review Unit, Operations Branch
Canada Border Services Agency / Government of Canada
Tanya.MacDonald@cbsa-asfc.gc.ca / Tel: 613-954-6476 / TTY: 866-335-3237

Conseillère principale de programme par intérim, Unité de la révision des cas, Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Tanya.MacDonald@asfc-cbsa.gc.ca / Tél. : 613-954-6476 / ATS : 866-335-3237

From: Giolti, Patrizia
Sent: March 29, 2017 3:07 PM
To: Case-Management, CBSA-NHQ <case-management@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-Media Relations <Media.Relations@cbsa-asfc.gc.ca>
Subject: FW: Tameh case

Hello – we are asked by PS for information on this file. Was this a PS Min relief or a IRCC?
Do we have a background/chrono on this file? Any info greatly appreciated, thanks, Pat

From: dbc.ca
Sent: Wednesday, March 29, 2017 12:35 PM
To: Bardsley, Scott (PS/SP); camielle.edwards@cic.gc.ca
Subject: Tameh case

Hi Scott and Camielle,

I am writing a story for tomorrow morning. My deadline is 16:00.

I'm writing to both of you because the ruling is against Goodale but this could be an issue for Immigration.

The story is about Federal Court case IMM-2418-16, concerning Morteza Momenzadeh Tameh and his application for permanent residency in 1994, was found inadmissible and then appealed and so on until now. The previous Public Safety Minister was ordered - eight years ago - to make a decision on ministerial relief.

The court strenuously disagreed with the minister's plea that he should not be subject to any decision-making timelines because he's too busy and issued a mandamus ordering him to make a decision on Tameh's case.

More importantly though, like the Jordan decision at SCC last summer, this decision sets timelines for the resolution of immigration cases I would like to get a sense, going forward, how both of your departments intend to handle the new deadline of essentially four years to make decisions.

CBC National News - Ottawa

PGP Key (to send encrypted email)

Bosse, Julie

From: Ismail, Naureen
Sent: March 23, 2017 03:17 PM
To: Vansickle, Tracey
Cc: Hanton, Ashley; Calma, Gordan
Subject: Files to be closed

Hi Tracey,

I just wanted to confirm with you that you would like us to contact the applicants directly for the 31 files we intend to close, to ask them if they have counsel representing them for the purposes of their MR applications. Looking only at the first batch of 10, all of the applicants have multiple telephone numbers listed, with, in some cases, the primary contact number being a lawyer's office. It may be easier to simply call counsels directly to confirm, though I would still hesitate to ask them for something in writing for files we're closing. For the continued interest letters (when we get there), we can ask for an updated Use of a Representative form, if we need one.

Ashley and Gordan, if we're calling applicants (or even if we're calling lawyers), we'll need to do up a Note to File for every call.

Thanks,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

Bosse, Julie

From: Ludwig, Edward
Sent: March 23, 2017 09:47 AM
To: Vansickle, Tracey
Cc: Ismail, Naureen; Calma, Gordan; Robertson, Jeff; StMarseille, Richard; Desmarais, Carl
Subject: FW: MR Regulations - Online Publication is done
Attachments: RE: Meeting to discuss way forward on MR amendment (H&C) and potential process regulations

Hi Tracey,

Just for your interest, I'm attaching one of the earliest emails I have dating back to when we first floated the idea (in the context of our response to *Agraira*) of creating regs to govern the MR process.

Again, congratulations!

Edward

From: Desmarais, Carl
Sent: March 22, 2017 9:18 PM
To: Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Robertson, Jeff <Jeff.Robertson@cbsa-asfc.gc.ca>; Ludwig, Edward <Edward.Ludwig@cbsa-asfc.gc.ca>
Subject: RE: MR Regulations - Online Publication is done

Kudos to the team! This is a major milestone.

From: Soper, Lesley L
Sent: March 22, 2017 3:44 PM
To: StMarseille, Richard; Lutfallah, Jennifer
Cc: Henderson, Lana; Byrne, Patrick; Ducharme, Nyiri; Ismail, Naureen; Calma, Gordan; Vansickle, Tracey; Robertson, Jeff; Desmarais, Carl
Subject: RE: MR Regulations - Online Publication is done

Well done, all! Great to see this finally done! Here's to it improving our quality and efficiency of processing!

From: StMarseille, Richard
Sent: March 22, 2017 3:34 PM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Robertson, Jeff

<Jeff.Robertson@cbsa-asfc.gc.ca>

Subject: MR Regulations - Online Publication is done

Hi Jennifer/Lesley

I'm happy to inform you that Atlas and the CBSA website have been updated to support the coming into force of the Ministerial relief regulations.

Tracey's team really pulled together to make implementation happen today despite some challenges internally with forms management and IT. Thanks to Naureen's personal efforts, the team was able to fix a technical issue with the form herself which was not able to be fixed on time by folks in either comptrollership or ISTB.

Thank you Gordan and Naureen for your commitment and tenacity on this final mile It's appreciated.

And thank you Jeff for a number of years slogging through the regulatory development and drafting process on this – we can officially consider the MR regs file closed now!

Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
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Direction générale des programmes
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Atlas

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Operational Bulletin: PRG-2017-11

[Downloadable version \(PDF, 167 KB\)](#)

Title: Amendments to the *Immigration and Refugee Protection Regulations*:
Ministerial Relief Applications

Date of Issue:

2017-03-22

Mode(s):

All

Target Audience:

All staff

Area of Interest:

National and Overseas

Purpose:

This Operational Bulletin (OB) describes amendments to the *Immigration and Refugee Protection Regulations* (IRPR) that are intended to bring greater clarity and consistency to the Ministerial Relief (MR) application process.

Key changes include the introduction of a mandatory form **BSF766** and specific parameters regarding when an application for a declaration of relief may be submitted and when it may be closed.

Background:

- Under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), foreign nationals may make an application for a declaration from the Minister of Public Safety and Emergency Preparedness (the Minister) that the matters referred to in section 34, paragraphs 35(1)(b) or (c), or subsection 37(1) of the IRPA do not constitute inadmissibility in their case¹.
- The granting of an exception from inadmissibility related to these grounds (security, human or international rights violations, and organized criminality, respectively) cannot be delegated, and is commonly known as Ministerial relief.
- The Canada Border Services Agency (CBSA) conducts an assessment of MR applications and develops a recommendation for the Minister. In the past, no formal MR application process existed: foreign nationals could submit a request at any time, in any format, and there were no regulatory requirements governing the MR application process.

- 1** With the June 19, 2013 coming-into-force of Bill C-43, the *Faster Removal of Foreign Criminals Act* (FRFCA), the separate MR provisions under subsections 34(2), 35(2), and 37(2) of IRPA were repealed and replaced by section 42.1. Please refer to **OB 533 – Coming into Force of Bill C-43 – Ministerial Relief Provisions.**

Regulatory Amendments:

Amendments to the IRPR came into force on March 10, 2017. The new regulatory framework institutes the following:

| Provision | Subject | Impact |
|---------------------|--|--|
| R24.1 | Application | Establishes parameters regarding when an application for a declaration of relief may be submitted. |
| R10(1)(a) and R24.2 | Form and content of application and required information | Requires the use of a specific application form and sets out the information that must be included in the application. |
| R24.3 | Return of application | Allows an application to be returned, unprocessed, if it does not meet the prescribed requirements. |
| R24.4 | Closing of file | Allows the closure of an application in specific circumstances (i.e. the applicant obtains permanent resident status; the application is withdrawn; the applicant seeks judicial review (JR) of their inadmissibility determination or removal order; or, the applicant fails to respond within 60 days to a CBSA notice requiring that they confirm their intent to proceed with their MR application). |
| R24.5 | Change in contact information | Requires applicants to provide updated contact information while MR applications are in process. |

- An MR application may only be submitted when inadmissibility has been determined and all rights of judicial review of that decision have been exhausted or expired. Inadmissibility is considered to be established when an immigration application (for temporary or permanent resident status) has been refused or when a removal order has been issued.
- For MR applications received prior to the coming-into-force of these regulations, transitional provisions limit the applicability of these amendments to the requirement to provide up-to-date contact information and the closure of files under the above-specified circumstances (except seeking JR of their inadmissibility determination or removal order).
- An additional transitional provision stipulates that an MR application received prior to the coming-into-force of these regulations will be closed following a final decision – including that all rights of judicial review have been exhausted or expired – that the applicant is not inadmissible on the grounds for which the applicant sought relief.

Actions Required by IRCC and CBSA Officers:

- A request for Ministerial relief must be initiated by the applicant and is a separate process from an immigration application. Where inadmissible foreign nationals enquire about MR, they should be directed to the online application form (**BSF766: Application for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act – PDF, 1.48 MB**), which contains information regarding the MR process. **Note that a pending MR application does not stay a removal order.**

- All MR applications are received and processed by the Ministerial Relief Unit (MRU) at the CBSA. In order to ensure a streamlined approach when responding to process and/or case backlogs, it is requested that all correspondence and submissions regarding MR be forwarded to the MRU at:

Ministerial Relief Unit

Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

- For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will in most cases continue to act as liaison between the applicant and the CBSA MRU. While these individuals may submit applications and submissions to the responsible visa office or to the CBSA directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.
- For more information, consult the **Guide to Applying for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act**.

Contact Information:

Ministerial Relief Unit, Policy Division, Enforcement and Intelligence Programs Directorate, Programs Branch

Any questions regarding this bulletin should be directed to the generic inbox of the **CBSA Ministerial Relief Unit**.

Approved by:

Richard St. Marseille, A/Director
Policy Division
Enforcement and Intelligence Programs Directorate
Programs Branch

Effective Date: Immediately

Updated: 2017-05-30

Additional bulletins

Date modified: 2017-05-30



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Travellers

Guide to Applying for a Declaration of Relief Under Subsection 42.1(1) of the *Immigration and Refugee Protection Act*

Table of Contents

- [What is an Application for a Declaration of Relief \("Ministerial relief"\)?](#)
- [How is a Ministerial relief application made?](#)
- [Does an applicant need a representative?](#)
- [What happens after a Ministerial relief application is submitted?](#)
- [What type of information should an applicant include in their submissions?](#)
 1. [Inadmissibility under IRPA paragraphs 34\(1\)\(a\), 34\(1\)\(b\), 34\(1\)\(b.1\), 34\(1\)\(c\), 34\(1\)\(e\), 37\(1\)\(a\), and/or 37\(1\)\(b\)](#)
 2. [Inadmissibility under IRPA paragraph 34\(1\)\(d\)](#)
 3. [Inadmissibility under IRPA paragraphs 34\(1\)\(f\) and/or 37\(1\)\(a\)](#)
 4. [Inadmissibility under IRPA paragraph 35\(1\)\(b\)](#)
 5. [Inadmissibility under IRPA paragraph 35\(1\)\(c\)](#)
 6. [All inadmissibilities](#)

- How long does it take for a Ministerial relief decision to be rendered by the Minister?
- What happens with the applicant's status following a Ministerial relief decision?

What is an Application for a Declaration of Relief ("Ministerial relief")?

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA) and related regulations, a foreign national can apply for a declaration of relief – commonly referred to as "Ministerial relief" (MR) – if they have been found to be inadmissible to Canada under section 34 (security), paragraphs 35(1)(b) or (c) (human or international rights violations), and/or subsection 37(1) (organized criminality) of IRPA, resulting in a removal order being issued against them by the Immigration and Refugee Board and/or an application for temporary or permanent residence being refused by Immigration, Refugees and Citizenship Canada (IRCC) in Canada or overseas.

The Ministerial Relief Unit (MRU) of the Canada Border Services Agency (CBSA) receives and processes MR applications, including drafting recommendations to the Minister of Public Safety and Emergency Preparedness ("the Minister") on whether relief should be granted or denied. MR decisions, however, rest solely with the Minister and cannot be delegated to government officials. MR is a discretionary authority, intended to be exceptional, and it is not meant to review or re-determine an inadmissibility finding.

Foreign nationals who are inadmissible to Canada under IRPA paragraph 35(1)(a) for commission of, or complicity in, genocide, war crimes or crimes against humanity are precluded from applying for MR.

How is a Ministerial relief application made?

An application for MR must be made using the *Application for a Declaration of Relief form* (BSF766), available free of charge on the CBSA's external website. The information submitted in the application form and any attached documents must be provided in either English or French. Applicants are requested to indicate, on their application form, their preferred official language of correspondence; this is also the language in which the CBSA will draft its recommendation to the Minister.

Relief applications may not be submitted until all rights of judicial review against the immigration refusal or removal order have expired or been exhausted. Applications which do not meet these and other eligibility criteria, as described in section 24.1 of the

Immigration and Refugee Protection Regulations (IRPR), or which do not provide the mandatory information laid out in subsection 24.2(1) of the IRPR, will be refused and returned unprocessed to the applicant.

- ❖ MR applications, and any submissions or subsequent correspondence related to an MR application, should be provided to the CBSA MRU at the following address:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, ON K1A 0L8

or by email at:

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will, in most cases, continue to act as the liaison between the applicant and the CBSA MRU. While these individuals may submit MR applications and submissions either to the responsible visa office or to the CBSA MRU directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.

Note that there may be instances where the CBSA MRU may contact an applicant directly. As per section 24.5 of the IRPR, the onus is on the applicant to notify the CBSA MRU without delay of any change in their address. Failure to respond to correspondence may result in an application being closed.

Does an applicant need a representative?

Note:

There is no requirement to retain an immigration representative for the purpose of an MR application; it is the applicant's choice.

No one can guarantee that the Minister will make a declaration of relief in any applicant's case.

If an applicant chooses to retain a representative, a copy of a signed Use of a Representative form (IMM5476) available for free on the IRCC website must be provided to the MRU to authorize the selected representative to make submissions and receive information on behalf of the applicant.

An applicant may only have one representative at a time. The CBSA MRU must be immediately notified of any change in the applicant's representation, including cancellation, or a change of address, by submitting a new, completed and signed Use of a Representative form. The CBSA is unable to communicate personal details to an individual who has not been authorized to act on behalf of the applicant. Any submissions or correspondence provided by an unauthorized individual in relation to an applicant will not be accepted or considered without a completed and duly signed Use of a Representative form.

IRPA makes it an offence for any person who is not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration – or offer to do so – in connection with a proceeding or application under that Act. Consideration includes money or any other form of compensation or reward.

What happens after a Ministerial relief application is submitted?

Once received by the CBSA MRU and determined to be eligible and complete, the MR application will be placed in the inventory of cases and processed based on its year of receipt. The MRU will review the application and any written submissions and make a recommendation to the Minister as to whether relief should be granted or denied. The CBSA's recommendation will be disclosed to the applicant prior to it being forwarded to the Minister for decision. This step will provide the applicant with the opportunity to review the recommendation, respond to any concerns raised by the CBSA, and to present additional submissions, should they wish to do so.

The Minister may, upon review of the MR application and the CBSA's recommendation, declare that the matters referred to in the above-noted inadmissibility provisions of IRPA do not constitute inadmissibility if the applicant satisfies the Minister that, in their case, relief is not contrary to the national interest. MR is not an alternative form of humanitarian review. Section 42.1(3) of IRPA stipulates that, in determining whether to make a declaration of relief, the Minister may only take into account national security and public safety considerations, but his or her analysis is not limited to considering the danger that

the applicant presents to the public or to the security of Canada. The burden of proof to demonstrate that relief is warranted rests with the applicant, and not with the Minister to demonstrate otherwise.

What type of information should an applicant include in their submissions?

The purpose of the MR application form (*Application for a Declaration of Relief BSF766*) is to present a specific set of information pertaining to the circumstances of the applicant's case, which may assist the Minister in the decision to grant or deny relief from an inadmissibility finding. The applicant may, however, submit any additional information they wish, with the goal of satisfying the Minister that relief, in their case, is not against the national interest.

Although the applicant is not restricted in terms of what type of information they may submit for consideration, this non-exhaustive list of examples may serve as a guide for the types of submissions that *may* be provided for Ministerial consideration. This list should *not* be interpreted as mandatory or prescriptive. Each application is assessed on its own merits and on the specific facts of the case.

1. Inadmissibility under IRPA paragraphs 34(1)(a), 34(1)(b), 34(1)(b.1), 34(1)(c), 34(1)(e), 37(1)(a), and/or 37(1)(b)

If the applicant's inadmissibility is related to engagement in and/or instigation of a particular act or acts, whether terrorism, violence that would or might endanger the lives or safety of persons in Canada, subversion, espionage, or organized criminality (including transnational crime), the applicant may wish to address the following factors, where applicable to their case:

- Describe in detail any circumstances where you directly or indirectly engaged in and/or instigated an act or acts of terrorism, violence, subversion, espionage, and/or organized or transnational crime. Provide dates and places and be as specific as possible about the incident(s).
- When and for how long did you engage in/instigate these or other illicit acts, if applicable?
- Describe in detail all relevant events leading up to, during AND following your engagement in and/or instigation of a specific act or acts.
- Describe in detail your precise role, and, if applicable, your ongoing duties (include dates, locations, and the impact of your act or acts).

- Explain your rationale/reason(s) for becoming engaged in and/or instigating such act or acts, and, if you have since ceased your activities, describe the motivation(s) behind that decision.
- Did you report to anyone, and, if YES, to whom did you report with respect to your engagement in the act or acts (include your direct superiors' positions/titles within an organizational hierarchy, if applicable)?
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your engagement in/instigation of such activities? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to the type of act or acts for which you were determined to be inadmissible to Canada.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

2. Inadmissibility under IRPA paragraph 34(1)(d)

If the applicant's inadmissibility is related to being a danger to the security of Canada, the applicant may wish to address the following factors, where applicable to their case:

- Describe in detail the activities for which you were found to be inadmissible.
- What activities did you advocate, plan, advance, orchestrate, or commit? Be specific.
- When and for how long were you involved in these acts? Are you still involved in such acts or will you be involved in the future?
- Describe in detail all relevant events leading up to, during, AND following your advocating, planning, advancing, orchestrating, engaging in and/or instigating a specific act or acts that resulted in your inadmissibility.
- Describe in detail your precise duties and roles (include dates, locations, and the impact of your act or acts).
- Explain the rationale/reason(s) for your involvement in these acts, and, if you have since ceased your activities, describe the motivation(s) behind your decision to stop.
- Did you report to anyone, and if YES, to whom did you report during your participation in any activities?
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your engagement in such activities? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to the type of act or acts for which you were determined to be inadmissible to Canada.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

3. Inadmissibility under IRPA paragraphs 34(1)(f) and/or 37(1)(a)

If the applicant's inadmissibility is related to membership in a particular organization or group, the applicant may wish to address the following factors, where applicable to their case:

- When and for how long were you a member of the organization?
- Explain your reasons for becoming involved with, and remaining with, that organization.
- Were you aware, while serving the group, of its reliance on violent/terrorist/subversive/criminal/espionage-related/other methods and activities in order to accomplish its goals?
- Explain in detail any circumstances where you participated in, or provided support for, the organization's involvement in such activities.
- Describe in detail your formal position(s) within the organization (if applicable), your precise duties and roles, as well as the activities in which you were involved on behalf of the organization of which you were/are a member (include dates, locations, and the impact of your activities).
- To whom did you report during your involvement with the organization (include your direct superiors' positions/titles within the organizational hierarchy)? You may wish to provide a chart or diagram indicating your position within the group.
- Describe in detail the nature and extent of your authority or the influence that you exerted while serving the organization. Provide concrete examples.
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your involvement with the organization? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to your involvement with the organization. Or, if you have ended your involvement with the group, provide details of the circumstances of your dissociation.
- Explain your current perspective toward the organization you served, and toward its methods, goals and objectives.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

4. Inadmissibility under IRPA paragraph 35(1)(b)

If the applicant's inadmissibility is related to being a senior official of a regime designated by the Government of Canada for having engaged in genocide, war crimes or crimes against humanity, the applicant may wish to address the following factors, where applicable to their case:

- When and for how long were you a senior official of a designated regime?
- Explain your reasons for becoming involved with, and remaining with, the regime.
- Were you aware, while serving the regime, of its reliance on violent methods or of the atrocities such as human or international rights violations committed by that government?
- Explain in detail any circumstances where you participated in, or provided support for, the regime's involvement in any such activities.
- Describe in detail your position(s) (including the names of units, sections, divisions, branches, departments, etc.) and your precise duties and roles, as well as the activities in which you were involved on behalf of the designated government (include dates, locations, and the impact of your activities on departmental/governmental operations).
- To whom did you report during your involvement with the designated regime (include your direct superiors' positions/titles/ranks within the organizational/departamental/governmental hierarchy)? You may wish to provide a chart or diagram indicating your position(s) within the hierarchy.
- Describe in detail the nature and extent of your authority or the influence that you exerted while serving the regime as a senior official. Provide concrete examples.
- What benefit(s) did you gain (financially, socially, through influence or power, or in any other way) from your involvement with the regime? Provide concrete examples.
- Describe in detail the nature of any continued or current activity related to your involvement with the regime. Or, if you have ended your involvement with the designated entity, provide details of the circumstances of your dissociation.
- Explain your current perspective toward the regime you served, and toward its methods, goals and objectives.
- Avoid any gaps in your narrative timeline and enclose any documents available to support your claims.

5. Inadmissibility under IRPA paragraph 35(1)(c)

If the applicant's inadmissibility is related to their being a person whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states (also known as a sanction), the applicant may wish to:

- Provide any information and documentation relating to the specifics of the imposed sanction(s), and why/how you were the subject of the sanction(s).
- Provide any information and documentation that you believe will satisfy the Minister that your inadmissibility should be overcome by a declaration of relief.

6. All inadmissibilities

All applicants may wish to address the following general considerations, where applicable:

- Describe circumstances where you used, planned or advocated the use of armed struggle, violence, and/or criminal acts to reach political, religious, social, organizational or personal objectives. Be specific (include dates, locations, the impact of your activities, etc.).
- Explain your current perspective toward relying on violent/terrorist/subversive/criminal/other methods or tactics to achieve organizational, political or personal goals.
- Address any circumstances where you were arrested and/or detained and/or jailed, and include dates (not limited to criminal activity, charges or convictions). Be specific.
- Address any circumstances where you have been charged with, convicted of, on trial for, or party to a crime or offence, or the subject of any criminal proceedings, in any country.
- According to IRPA, when assessing whether MR would be against the national interest, the Minister may only take into account national security and public safety considerations. You may wish to bring to the Minister's attention any personal factors, or mitigating or extenuating circumstances, related to the national interest that you believe may help to satisfy the Minister that relief is warranted.

How long does it take for a Ministerial relief decision to be rendered by the Minister?

As a non-delegable decision that must be made personally by the Minister, MR frequently requires an in-depth review of a voluminous amount of information and submissions, entails a comprehensive assessment of many factors, and involves input from relevant partners, as well as a review by senior officials. Given the complexity of the process, an exact timeline as to when an applicant may expect a decision to be rendered by the Minister cannot be predicted.

What happens with the applicant's status following a Ministerial relief decision?

A declaration of relief does not automatically confer status under IRPA.

If the Minister denies relief to an applicant, the applicant will not be relieved from their inadmissibility under the provision(s) of IRPA against which they sought a Ministerial declaration.

If the Minister is satisfied, following his or her assessment of the applicant's case, that it is not contrary to the national interest to overcome the applicant's inadmissibility, the Minister may make a declaration of relief. This will eliminate the inadmissibility as a barrier to obtaining an immigration visa or regularizing the applicant's status in Canada through IRCC, should they so wish, provided that no additional inadmissibilities against the applicant exist or are subsequently determined.

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Registration

SOR/2017-38 March 10, 2017

IMMIGRATION AND REFUGEE PROTECTION ACT

Regulations Amending the Immigration and Refugee Protection Regulations

P.C. 2017-227 March 10, 2017

His Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 5(1) and section 43 of the *Immigration and Refugee Protection Act* ([see footnote a](#)), makes the annexed *Regulations Amending the Immigration and Refugee Protection Regulations*.

Regulations Amending the Immigration and Refugee Protection Regulations

Amendments

1 Paragraph 10(1)(a) of the *Immigration and Refugee Protection Regulations* ([see footnote 1](#)) is replaced by the following:

(a) be made in writing using the form, if any, provided by the Department or, in the case of an application for a declaration of relief under subsection 42.1(1) of the Act, by the Canada Border Services Agency;

2 The Regulations are amended by adding the following before section 14:

DIVISION 1

Determination of Inadmissibility

3 The Regulations are amended by adding the following after section 24:

DIVISION 2

Application for Declaration of Relief Under Subsection 42.1(1) of the Act

Application

24.1 (1) A foreign national may apply for a declaration of relief under subsection 42.1(1) of the Act if a decision has been made to refuse their application for permanent or temporary resident status, or a removal order has been issued against them, on the basis of a determination of inadmissibility under section 34, paragraph 35(1)(b) or (c) or subsection 37(1) of the Act.

Judicial review

(2) However, if the foreign national has filed an application for leave to commence an application for judicial review under subsection 72(1) of the Act with respect to a decision or removal order referred to in subsection (1), the foreign national may only make an application under subsection (1) after the earliest of the following:

- (a)** the Federal Court refuses the application for leave,
- (b)** if the application for leave is granted, the Federal Court refuses the application for judicial review and no question is certified for the Federal Court of Appeal,
- (c)** if a question is certified for the Federal Court of Appeal,
 - (i)** an appeal to the Federal Court of Appeal is not filed within the time limit, or
 - (ii)** the Federal Court of Appeal dismisses the appeal and an application to the Supreme Court of Canada for leave to appeal from that decision is not filed within the time limit,
- (d)** if an application is filed with the Supreme Court of Canada for leave to appeal,
 - (i)** the application is refused,
 - (ii)** the application is granted and an appeal is not filed within the time limit, or
 - (iii)** the Supreme Court of Canada dismisses the appeal, and
- (e)** the foreign national discontinues their application for leave to commence an application for judicial review, application for judicial review, appeal to the Federal Court of Appeal, application to the Supreme Court of Canada for leave to appeal or appeal to the Supreme Court of Canada, as the case may be.

Required information

24.2 (1) An application under subsection 42.1(1) of the Act must include the following information in respect of the applicant:

- (a)** their place of birth, gender and marital status and the names of any former spouses or common-law partners;
- (b)** their telephone number and email address, if any;
- (c)** their former countries of citizenship or former countries of nationality;
- (d)** their education, including the name and address of all elementary and secondary schools and post-secondary, technical and vocational institutions attended and the start and end dates for the periods during which they attended each school or institution;
- (e)** their work history, including volunteer work, from the age of 16 years, including start and end dates for each period of work, their job title and job description and the employer's name and address;

(f) their international travel history from the age of 16 years, including a list of the countries visited, the purpose of the visits, the dates and duration of the visits and any immigration status sought from or granted by any country visited; and

(g) the provision of the Act under which they were determined to be inadmissible — section 34, paragraph 35(1)(b) or (c) or subsection 37(1) — as well as the date on which and the city and country in which the determination was made and whether the determination resulted in a decision or removal order referred to in subsection 24.1(1).

Non-application of paragraphs 10(2)(b) and (c)

(2) Paragraphs 10(2)(b) and (c) do not apply to an application under subsection 42.1(1) of the Act.

Return of application

24.3 If the requirements of sections 24.1 and 24.2 are not met, the application is not accepted for processing and the application and all documents submitted in support of it are returned to the applicant.

Closing of file

24.4 The processing of the application is discontinued and the applicant's file is closed if

(a) a notice has been sent to the applicant requiring that they confirm their intention to proceed with their application and the applicant fails to respond to the notice within 60 calendar days after the day on which it was sent;

(b) the applicant has acquired permanent resident status;

(c) the applicant withdraws their application in writing; or

(d) the applicant has, since making their application, filed an application for leave to commence an application for judicial review under subsection 72(1) of the Act with respect to a decision or removal order referred to in subsection 24.1(1).

Change in information

24.5 The applicant must notify the Minister without delay of any change in their address, telephone number or email address and, if the applicant is represented, the address, telephone number, fax number or email address of their representative.

Transitional Provisions

4 (1) Section 24.5 of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies to applications that were made under subsection 42.1(1) of the *Immigration and Refugee Protection Act* before the coming into force of this subsection.

(2) Section 24.5 of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies, with any necessary modifications, to any requests that were submitted to the Minister of Public Safety and Emergency Preparedness in respect of the exception described in subsection 34(2) or 35(2) or paragraph 37(2)(a) of the *Immigration and Refugee Protection Act*, as each of those provisions read before the coming into force of sections 13 to 15 and 18 of the *Faster Removal of Foreign Criminals Act*, chapter 16 of the Statutes of Canada, 2013.

5 (1) In the case of an application that was made under subsection 42.1(1) of the *Immigration and Refugee Protection Act* before the coming into force of this subsection, the processing of the application is discontinued and the applicant's file is closed, on or after the day on which this subsection comes into force, if any of the conditions referred to in paragraphs 24.4(a) to (c) of the *Immigration and Refugee Protection Regulations*, as enacted by section 3, applies or if the following conditions apply:

(a) it is determined that the applicant is not inadmissible under each of section 34, paragraph 35(1)(b), paragraph 35(1)(c) and subsection 37(1) of the *Immigration*

and Refugee Protection Act following an examination — or a hearing by the Immigration Division or, in the case of an appeal, the Immigration Appeal Division — that takes place after the application under subsection 42.1(1) of that Act is made, but the applicant has not acquired permanent resident status; and

(b) an application under subsection 72(1) of the *Immigration and Refugee Protection Act* for leave to commence an application for judicial review with respect to the determination referred to in paragraph (a)

(i) is not filed within the time limit; or

(ii) is filed within the time limit and any of the following circumstances occurs:

(A) the Federal Court refuses the application for leave,

(B) if the application for leave is granted, the Federal Court refuses the application for judicial review and no question is certified for the Federal Court of Appeal,

(C) if a question is certified for the Federal Court of Appeal,

(I) an appeal to the Federal Court of Appeal is not filed within the time limit, or

(II) the Federal Court of Appeal dismisses the appeal and an application to the Supreme Court of Canada for leave to appeal from that decision is not filed within the time limit,

(D) if an application is filed with the Supreme Court of Canada for leave to appeal,

(I) the application is refused,

(II) the application is granted and an appeal is not filed within the time limit, or

(III) the Supreme Court of Canada dismisses the appeal, or

(E) the application for leave to commence an application for judicial review, application for judicial review, appeal to the Federal Court of Appeal, application to the Supreme Court of Canada for leave to appeal or appeal to the Supreme Court of Canada, as the case may be, is discontinued.

(2) Subsection (1) applies, with any necessary modifications, to any requests that were submitted to the Minister of Public Safety and Emergency Preparedness in respect of the exception described in subsection 34(2) or 35(2) or paragraph 37(2)(a) of the *Immigration and Refugee Protection Act*, as each of those provisions read before the coming into force of sections 13 to 15 and 18 of the *Faster Removal of Foreign Criminals Act*, chapter 16 of the Statutes of Canada, 2013.

Coming into Force

6 These Regulations come into force on the day on which they are registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issues

Foreign nationals who are believed to be or found to be inadmissible under the *Immigration and Refugee Protection Act* (IRPA) on the basis of security, certain provisions relating to human or

international rights violations, or organized crime may be accorded a declaration of relief by the Minister of Public Safety and Emergency Preparedness (the Minister) under subsection 42.1(1) of the IRPA (Ministerial relief) if they satisfy the Minister that doing so would not be contrary to the national interest. Upon being granted relief by the Minister, the matters which had led to a finding of inadmissibility under the above-listed provisions no longer constitute inadmissibility. A person who has been granted relief may then make applications for temporary or permanent resident status without the applications being rejected on the basis of the grounds of inadmissibility for which relief was granted.

A number of issues have contributed to inefficiencies in terms of processing requests for Ministerial relief. These include the lack of a formalized application process, the inability to close applications as appropriate in the absence of a declaration by the Minister, and voluminous applicant submissions of varying degrees of relevance to the ministerial decision-making process. Currently, there is no standardized application form and applicants may seek Ministerial relief at any time. For instance, applicants may simply indicate that they wish to be considered for Ministerial relief, providing little or no supporting explanation or documentation. This means that resources are allocated to processing applications from individuals who may not be found inadmissible and thereby not require Ministerial relief (e.g. they have been granted permanent resident status). Until recently, approximately 50% of the inventory of applications comprised cases pending a final decision on inadmissibility. This has contributed to a significant backlog of cases, all of which must be personally decided upon by the Minister.

Background

Legislative and regulatory framework

The IRPA governs Canada's admissibility determination regime, including provisions for Ministerial relief. The *Immigration and Refugee Protection Regulations* (IRPR or the Regulations) are made under the authority of the IRPA. Currently, under the IRPR, there are no regulatory requirements with respect to applications for Ministerial relief, and no structure applicable to the form or content of applications. The *Faster Removal of Foreign Criminals Act* (Bill C-43) came into force in June 2013. Among other things, Bill C-43 amended the IRPA to clarify that Ministerial relief may be considered via an application.

Individuals typically request Ministerial relief by providing documentary submissions to Immigration, Refugees and Citizenship Canada (IRCC) or the Canada Border Services Agency (CBSA). The submissions are sent to the CBSA for processing. The Ministerial relief process is guided by standards of procedural fairness, case law, and internal policies and procedures. The CBSA assesses requests for Ministerial relief and develops a recommendation for the Minister. There have never been restrictions on the type of submissions that may or should accompany a request for Ministerial relief. This has led to lengthy submissions with varying degrees of relevance to the test applied to Ministerial relief applications. All information and all arguments presented by the applicants are considered and incorporated into the review and decision-making process.

There is currently no formal criterion establishing when a person may apply for Ministerial relief. Previously, IRCC officers were directed to refer a person for consideration for Ministerial relief and to await the outcome of the Ministerial relief process prior to rejecting their immigration application (e.g. temporary or permanent resident application) or prior to allegations of inadmissibility being referred to the Immigration and Refugee Board of Canada (IRB) for determination. As a result, the current Ministerial relief inventory includes applications from individuals who have yet to receive a final decision on admissibility.

The policy to hold immigration applications in abeyance pending the outcome of consideration under Ministerial relief has, however, been rescinded. Accordingly, applications for Ministerial relief are no longer required to be considered prior to rendering a determination on inadmissibility. Instead, the processing of immigration applications continues through to completion regardless of whether a request for Ministerial relief is outstanding. Nevertheless, persons may submit applications for Ministerial relief whenever they wish, which in turn contributes to inventory growth as the inventory of applications

includes those who may not be inadmissible. This may include, for instance, cases where a person was subsequently granted permanent resident status, a finding of inadmissibility has yet to be made, or where a finding of inadmissibility has been set aside on judicial review by the Federal Court. Presently, there is no provision allowing for these applications to be closed without them being processed to completion.

It should be noted that this regulatory amendment was originally proposed in combination with another, separate, regulatory proposal concerning when an examination of refugee claimants could be considered to have come to an end (end of examination). As the issues relating to Ministerial relief and end of examination require that amendments be made to the same set of Regulations (the IRPR), for efficiency, the CBSA initially elected to combine the initiatives into a single amending instrument. The proposed Ministerial relief and end of examination amendments were prepublished together on June 20, 2015, in the *Canada Gazette*, Part I as a single regulatory proposal; no comments were received.

However, since that time, the Government of Canada announced a number of new refugee policy-related priorities. As a result, the end of examination regulatory proposal has been removed from the proposed amendments; these changes will not be implemented at this time. This approach will provide the Government of Canada with an opportunity to thoroughly consider proposed changes to the end of examination Regulations, in light of the Government's new, and broader, policy direction. The two initiatives, while originally presented together, are unrelated; as a result, there is no substantive impediment to moving forward with only the implementation of the Ministerial relief amendments.

Objectives

The new regulatory requirements will bring greater clarity, consistency and efficiency to the Ministerial relief application process. These Regulations are intended to govern the overall application process only, and are not intended to affect decision-making factors.

The amendments to the IRPR will create new regulatory provisions specifically related to processing applications for Ministerial relief that will

1. establish when a foreign national may submit an application;
2. prescribe the use of a specific application form;
3. provide for the return of an application, unprocessed, when certain content requirements are not met;
4. provide for applications to be closed when an applicant does not respond to a notice requiring them to confirm their intention to proceed with their application within the specified time frame, or when other remedies have been obtained or are sought;
5. require applicants to provide the Minister with updated contact information while applications for Ministerial relief are in process; and
6. address transitional cases affected by the new Regulations by clarifying which aspects of the regulatory amendments will apply to requests for Ministerial relief received prior to the coming into force of these regulatory amendments.

Description

The IRPR have been amended to include the following new regulatory requirements:

(1) Establish when a foreign national may submit an application

The Regulations now provide that a foreign national may apply for Ministerial relief only after inadmissibility (on the relevant IRPA grounds) has been determined, and all rights of judicial review have been exhausted or expired. Inadmissibility is established when the person has been refused an immigration application (i.e. temporary or permanent resident application), or when a removal order has been made against them.

(2) Prescribe the use of a specific application form and set out the information that is required to be included in the application

The Regulations now provide that an application for Ministerial relief must be made using the form provided by the CBSA.

The application must include all information and documents required by the Regulations, as well as any other evidence required by the IRPA. In particular, the Regulations set out the following requirements:

- the application must be signed by the applicant;
- the application must contain the name, birth date, address, nationality and immigration status of the applicant and of all family members of the applicant, the applicant's place of birth, gender, marital status and the names of any former spouses or common-law partners;
- the application must contain the applicant's telephone number and electronic mail address, if any, their former countries of citizenship or former countries of nationality, their education, work history and international travel history;
- the application must include the grounds of the IRPA on which the applicant was found to be inadmissible and the related circumstances;
- if the applicant is represented or has been advised in connection with the application, the application must include the name, postal address, telephone number, fax number and electronic mail address, if any, of any person or entity — or a person acting on its behalf — representing the applicant; and
- the application must include a declaration that the information provided is complete and accurate.

(3) Provide for the return of an application, unprocessed

The Regulations now provide that the application and all supporting documents will be returned to the applicant, unprocessed, if the application does not meet the prescribed requirements.

(4) Provide for the closing of applications

The Regulations now provide for the closing of applications under certain conditions. First, an application may be closed if the person has, since submitting their application for Ministerial relief, been granted permanent resident status. Second, the CBSA may send a notice to the applicant and, if the applicant does not reply to the notice within 60 days, the application will be closed. Third, an application may be closed if the person withdraws their application in writing. Finally, an application may be closed if the person has, since submitting their application for Ministerial relief, submitted an application for leave and judicial review of the inadmissibility decision for which the applicant sought Ministerial relief.

(5) Updated address and contact information

The Regulations make it clear that the onus is on the applicant to continually ensure that the Minister has valid contact information.

(6) Transitional provisions

Transitional provisions have been enacted to clarify how the Regulations will apply to applications that were made prior to the coming into force of the amendments to the Regulations. The requirement to apply using the form provided by the CBSA and the requirement that applicants already have a finding of inadmissibility against them before being considered for Ministerial relief will not apply to applications received prior to the coming into force of the amendments to the Regulations. However, the provisions relating to the closing of applications, with the exception of those being closed due to the filing of an application for leave and judicial review of the inadmissibility decision for which the applicant sought Ministerial relief, and the requirement to provide the Minister with up-to-date contact information, will apply to all cases. The transitional provisions also specify that an outstanding Ministerial relief application received prior to the coming into force of the amendments to the Regulations is closed following a final decision that the applicant is not inadmissible on the ground for which the applicant sought Ministerial relief.

“One-for-One” Rule

The "One-for-One" Rule does not apply, as the amendments to the Regulations apply only to individuals, not businesses.

Small business lens

The small business lens does not apply, as the amendments to the Regulations apply only to individuals, not businesses.

Consultation

On July 11, 2014, the following stakeholders were notified that consideration was being given to these regulatory amendments:

- Canadian Bar Association
- Canadian Association of Refugee Lawyers
- Canadian Council for Refugees
- Centre for Immigration Policy Reform
- United Nations High Commissioner for Refugees
- Association québécoise des avocats et avocates en droit de l'immigration
- British Columbia Civil Liberties Association
- Canadian Police Association
- Amnesty International Canada
- Table de concertation des organismes au service des personnes réfugiées et immigrantes
- Canadian Association of Professional Immigration Consultants

Preliminary stakeholder consultation on the proposed amendments to the Regulations took place in July and August 2014. Eleven stakeholders were consulted. Three stakeholders responded with comments, and one stakeholder responded that their comments would be sent during the prepublication stage. There was no response from the remaining identified stakeholders.

Among the stakeholders who responded, reaction was mixed, depending on the specific proposed requirement. For instance, most stakeholders agreed that there are opportunities to improve the Ministerial relief application process. There was also general agreement that published guidelines to support the amendments to the Regulations and a new standardized application form would be beneficial. There were a range of views, however, on the content of the application form and the degree to which it should contain mandatory versus recommended information requirements.

Some stakeholders were critical of the proposal to allow applications for Ministerial relief only if a foreign national has had a finding of inadmissibility. For instance, comparisons were made to temporary resident permits, which do not have such a requirement for a finding of inadmissibility. Moreover, it was suggested that Ministerial relief applications made in Canada should be accompanied by a regulatory stay of removal. However, the amendments to the Regulations are integral to application inventory management and the efficiency of the processing of Ministerial relief applications. In addition, the Regulations do not affect a foreign national's ability to apply for a temporary resident permit. Moreover, in the event that a person with an outstanding application for Ministerial relief has initiated litigation at the Federal Court with respect to a decision rendered under the IRPA, the person may seek a stay of removal pending the outcome of a Ministerial relief application made in Canada. Finally, a number of comments related to decision-making by the Minister were provided. However, this issue is beyond the scope of the regulatory amendments. Accordingly, no changes were made in these areas.

Changes were, however, made in other areas in response to the feedback provided. For instance, some stakeholders recommended extending the period within which an applicant must respond to a notice prior to the closing of an application from 30 days to 90 days. In response, the time frame to respond to such a notice was extended from 30 days to 60 days. The amendments to the Regulations are designed to provide the applicant with sufficient opportunity to respond prior to an application being closed.

On June 20, 2015, the proposed amendments to the Regulations were republished in the *Canada Gazette*, Part I. No comments were received from external stakeholders in response to the prepublication. Minor changes were, however, made to two provisions, as well as to the transitional provisions of the republished Regulations. The provision concerning the return of applications was amended to clarify that if the requirements are not met, the application is not accepted for processing. The provision concerning changes in information was amended to include changes to their fax number, and to specify that notification of changes to the information of the representative is only required if the applicant is represented.

With respect to the transitional provisions, minor changes were made to better align the application of these new requirements with the underlying policy intent for the amendments to the Regulations, which is to avoid using CBSA resources on cases that no longer require Ministerial relief. Therefore, amendments to the proposed Regulations related to Ministerial relief were done to avoid the possible closure of certain outstanding applications that had been submitted prior to the coming into force of the amendments, namely those where the applicant had filed for leave and for judicial review of the relevant inadmissibility determination since making their Ministerial relief application. While the provision related to the closing of files due to the filing of an application for leave and for judicial review remains in the Regulations, it no longer applies to cases submitted before the coming into force of the amendments. However, to allow for the closure of files submitted before the coming into force of the amendments to the Regulations in cases where the applicant has since been found to not be inadmissible on the ground for which Ministerial relief was sought, a transitional provision has been added that establishes the authority to close applications in those circumstances.

Rationale

The amendments to the Regulations are intended to result in a more efficient, consistent, and transparent Ministerial relief application process. As envisioned, this new process is expected to support streamlined decision-making, while reducing the resource burden created by inventory backlogs. From the applicant's perspective, greater efficiency in the application process will mean faster decisions, which will reduce uncertainty about their prospects of obtaining status in Canada. Greater transparency, moreover, will support the ongoing maintenance of a fair and effective application process.

The amendments will introduce structure into the Ministerial relief application process, ensuring that any applications for Ministerial relief will be based on finalized inadmissibility determinations on security grounds, certain provisions relating to human or international rights violations, or organized crime. This will ensure that the Minister's decision on whether or not to grant relief, and the expenditure of significant resources necessary to conduct the related assessment, is with respect to a final decision relating to the applicant's inadmissibility.

This requirement will ensure that resources are focused on inadmissible clientele and not used to process applications where inadmissibility decisions are later set aside on judicial review or where there is not yet a determination on an allegation of inadmissibility. It will also contribute to effective decision-making as it will ensure that the Minister's decision is with respect to a finding of inadmissibility that has withstood any applicable judicial review. If applicants seek judicial review of the inadmissibility decision, then the judicial review process must be completed before the application will be accepted.

The authority to close applications will ensure that CBSA resources are used more efficiently to focus on active applications. A better use of available resources is expected to have a positive impact on backlog reduction given the length of time that some cases have been in the inventory with no client contact. Efforts will be made to contact applicants in the inventory twice (a request for information, followed by the notice pursuant to the Regulations, each of which provide a 60-day response period). The initial request for information is administrative and is not a regulatory requirement. Responses indicating the applicant's further interest in obtaining relief will always result in the case continuing to be processed. Furthermore, individuals whose applications are not considered further under this provision could still choose to reapply at a later date, albeit subject to the rules in force at that time.

Qualitative costs and benefits

Canadians are not subject to the admissibility provisions in the IRPA. By not being inadmissible, they also cannot benefit from Ministerial relief. The regulatory amendments will therefore not result in any direct costs to Canadians.

The CBSA will incur minor costs associated with the publication of an operational bulletin describing the changes arising from the amendments to the Regulations, as well as CBSA training. As the regulatory changes only address the application process (as opposed to the analysis and recommendation-issuing processes), the necessary training is expected to be simple and straightforward.

Costs directly related to the enforcement of the Regulations will similarly be minimal. The CBSA will see new costs related to determining whether or not applications for Ministerial relief comply with the Regulations. The applications that do not comply will be returned to the applicants, who will be able to reapply once the issue has been addressed. Returning applications that do not meet the criteria established in the Regulations will mean that the subsequent costs associated with unnecessarily preparing a recommendation for the Minister will be avoided.

Direct costs to the Government of Canada associated with implementing the regulatory amendments will be approximately \$189 per application. This includes costs associated with triaging applications and verifying their compliance, in line with the Regulations. Projections for the intake of applications for Ministerial relief are set at approximately 20 per year. Accordingly, the annual implementation cost is projected to be approximately \$3,780. As the Ministerial relief application process is open only to inadmissible foreign nationals, there will be no costs to businesses.

The implementation cost, however, is expected to be more than offset by associated savings. The average cost of processing a recommendation on a Ministerial relief application is within the range of \$27,608 to \$29,224 per year per case. One application returned for non-compliance with the regulatory amendments or otherwise closed could therefore result in savings of approximately \$25,444 per year (i.e. \$29,224 – \$3,780). Assuming the applicant does not immediately reapply with a valid application that meets the prescribed requirements, one returned application could more than offset the annual direct costs associated with implementing the new regulatory amendments.

Implementation, enforcement and service standards

To support implementation of these Regulations, implementation guidelines will be developed and published when the amendments to the Regulations come into force. The Regulations come into force the day upon which they are registered. In addition, a specific Ministerial relief application form will be published and available online.

Generally, the form and content specifications will align with those that already apply to other applications under the Regulations in accordance with section 10 of the IRPR. In addition to mandatory fields that the applicant will be required to complete in order for the application to be processed, the form will include non-mandatory questions targeted at obtaining information that will assist the CBSA in assessing certain national security and public safety considerations related to the national interest.

The application form will also be accompanied by guidelines that will indicate the type of information that is recommended be included for the application to be processed. While each case will be assessed on its own merits, and applicants will not be restricted in terms of the amount or content of their accompanying submissions, the nature of the information requested will be the same for all applicants, which will provide for greater consistency, efficiency and transparency. This standardized approach will help the applicant and the CBSA ensure that efforts are focused on submissions that present the Minister with the information necessary for informed decision-making.

If an application is returned, the applicant will be informed that the application has not been accepted for processing because of a specific type of non-compliance (e.g. incomplete application form or inadmissibility has not yet been established). The applicant will then have sufficient information to take corrective measures (e.g. submit a new application that includes the missing information or wait for an inadmissibility decision before submitting an application). Applications that have been returned

unprocessed will not be considered part of the active inventory. Any future submissions, if accompanied by a properly completed Ministerial relief application form, will be considered "new applications" and, in accordance with procedures at the time, constitute a new file that will be placed in the queue for processing.

Contact

Richard St Marseille
Manager
Immigration Enforcement Policy Unit
Canada Border Services Agency
100 Metcalfe Street, 10th Floor
Ottawa, Ontario
K1A 0L8
Telephone: 613-954-3923

Footnote a

S.C. 2001, c. 27

Footnote 1

SOR/2002-227

Date modified: 2017-03-22

Bosse, Julie

From: Calma, Gordan
Sent: March 16, 2017 12:50 PM
To: Hanton, Ashley; Vansickle, Tracey
Cc: Campbell, Jamison; Ismail, Naureen; Gloster, Craig
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I think it is certainly feasible, and I will be helping Naureen and Ashley (probably even signing some letters). However, before we start mailing them out, we need to decide:

- 1) How many interest letters in total do we want to mail out this year (10, 20, 30,...)?
- 2) For which files?

Thanks.
Gordan

Gordan Calma
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From: Hanton, Ashley
Sent: March 16, 2017 12:44 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I would say that we could send out an additional 10 letters in April on top of the 33 (since we were originally thinking we were going to be sending out around 40 anyways).

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Vansickle, Tracey
Sent: March 16, 2017 12:32 PM
To: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Perfect. Thanks! Given the small number of cases, does anyone have a concern that we could not also have the first interest letter mailed out by the end of April?

From: Hanton, Ashley

Sent: March 16, 2017 12:16 PM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Yes, 33 is correct. There are also around 9 cases where we have identified that the applicants cannot be located for other immigration processes etc. and which we will probably be able to close later (following an interest letter).

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Calma, Gordan

Sent: March 16, 2017 12:11 PM

To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I think you are correct. There are around 33 cases that can be immediately closed pursuant to R24.4(b) – this number does not account for the cases that Janis identified (those would probably have to be closed later pursuant to R24.4(a)). Ashley is double-checking right now, so please stand by.

Thx.
Gordan

From: Campbell, Jamison

Sent: March 16, 2017 12:02 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: Re: URGENT: Number of MR cases which can be closed with C-43 regs

The ones on the look ahead are all cases that we will tackle with our first wave of letters (ie cases that have either been landed by IRCC or are pending landing). I'm not sure what the source of the 42 or 43 cases is but I can assume they include the cases previously identified by Janis as ones where we can't locate the individual. There was an excel sheet created and saved on the shared drive.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey

Sent: Thursday, March 16, 2017 11:50 AM

To: Hanton, Ashley; Calma, Gordan; Ismail, Naureen; Campbell, Jamison; Gloster, Craig

Subject: URGENT: Number of MR cases which can be closed with C-43 regs

Hi folks,

It's been mentioned a few times recently that there are about 42 or 43 cases that can be closed when the regs are in force. There are only 33 cases listed on the Look Ahead. What is the source for the rest of the cases – the old calculations that were done for the inventory that Janis had started? We have to provide a fairly firm number for the President/EVP briefing, so if someone could please confirm asap, that would be helpful.

Thanks.

Bosse, Julie

From: Vansickle, Tracey
Sent: April 25, 2017 06:22 PM
To: Calma, Gordan
Cc: StMarseille, Richard; Gloster, Craig; Campbell, Jamison; Ismail, Naureen
Subject: RE: Two MR mandamus cases

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Calma, Gordan
Sent: April 25, 2017 2:02 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>;
Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: Two MR mandamus cases

Hi, Tracey.

The FB06s met briefly this morning to bring Craig up-to-speed on the latest developments, and to talk about the situation with MR files and the two pending *mandamus* cases. We have decided that Naureen will be in charge of the SS *mandamus* file and Craig will be in charge of the OA *mandamus* file as Jamison, Ashley and I are swamped with other files. As you are aware, we need to report on the progress of *mandamus* files as part of our newly instituted Monthly Performance Report (i.e., the revised "Look Ahead").

Craig and Naureen are currently preparing a Rule 9 response for both cases, and will be dealing with Rule 17 requirements/CTRs (with Jamison and me assisting them in the process).

time permitting, before they are
submitted to you for review.

Thank you.

Gordan

Gordan Calma

Senior Program Advisor - Ministerial Relief Unit, Programs Branch

Canada Border Services Agency / Government of Canada

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Bosse, Julie

From: Vansickle, Tracey
Sent: April 6, 2017 08:09 AM
To: Lutfallah, Jennifer
Cc: StMarseille, Richard; Byrne, Patrick; Ducharme, Nyiri
Subject: MR proposed triage process: BN, deck, stats, Q&A
Attachments: Min_deck_MR_Inventory_Reduction_12apr2016_Pres_ approved w notes.pptx; 2016 MR inventory stats Mar22.xlsx; Stats & responses for AVP briefing of Min 31mar2016.docx; BN_Min_Action_MR_Expedited_Ministerial_Consideration_Proposal_ 22apr2016 PO changes CLEAN.docx

Hi Jennifer,

As requested, attached is the April 2016 deck (with talking points) for the Minister on the proposed triage process. This plus the MR regs were presented as joint measures to streamline application processing and better manage the aging inventory.

Slides 1-5 are pretty much the standard background on MR that you've seen in other decks.

The proposed process is mapped out on slide 10.

I've attached some stats we did at the time (the second tab of charts is more user friendly but doesn't have as much info as the first), breaking down the inventory by different front-end triage criteria (type of inadmissibility, pre- or post-C-43, in Canada or overseas, age of application, length of time in Canada, listed entities, etc.),

I have also included responses to questions that Peter asked when he was preparing to brief the Minister. From what we were told, a detailed briefing was not provided in the end. Peter was travelling with the Minister and was scheduled to have 15 minutes to brief him on this proposal. Ultimately, I believe that it was the President who spoke to the Minister, but only for 5 minutes on the margins of another meeting. Therefore, he was given a few high-level talking points

and he indicated that he'd be open to that, but wanted more information on the actual proposal.

We then sent up a BN (attached) on inventory management seeking the Minister's concurrence on the proposed approach to "referring Ministerial relief (MR) cases for [his] consideration". As Richard mentioned yesterday, the initial conception – labelled an "expedited inventory reduction" proposal – had become an "inventory management" strategy (that essentially replicated what we were already doing)

I don't know that the Minister ever saw the deck or the process mapping. No response was ever received from the MO on the BN.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
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ADVICE TO THE MINISTER



Ministerial Relief - Inventory Management

Briefing to the Minister



PROTECTION - SERVICE - INTEGRITY

Canada



Purpose

- To provide an overview of the Ministerial Relief (MR) program
- To propose measures to streamline application processing and better manage the aging inventory



Ministerial Relief

- Recourse of last resort for the most serious inadmissibilities, but:
 - Not an alternate humanitarian and compassionate mechanism (Minister IRCC role)
 - Does not, in and of itself, grant immigration status
 - Cannot be delegated under the *Immigration and Refugee Protection Act* (IRPA)
- Minister's authority to overcome serious inadmissibilities, including:
 - Security
 - Certain provisions relating to human or international rights violations
 - Organized criminality
- To grant relief, the PS Minister must be satisfied that it is not against the national interest:
 - Considerations are predominantly national security and public safety

- Ministerial relief (MR) is an authority exercised only by the Minister of Public Safety, and it may not be delegated. A grant of relief removes the most serious inadmissibilities under the *Immigration and Refugee Protection Act* (IRPA) for:
 - security (s. 34)
 - human or international rights violations (para. 35(1)(b) and (c)); and
 - organized criminality (s. 37)
- MR is a recourse of last resort that is available to individuals who seek to overcome these serious inadmissibilities and therefore is meant to be exceptional.
- The Supreme Court has ruled that relief is not an alternate recourse mechanism to have humanitarian and compassionate aspects considered (H&C is Minister IRCC role). Nor does relief, in itself, grant immigration status.
- To grant relief, the Public Safety Minister must be satisfied that it would not be against the national interest.
- While “national interest” has never been defined, a June 2013 Supreme Court decision (*Agraira*) reaffirmed that national security and public safety (NSPS) elements are the “predominant” considerations in rendering an MR decision.

Background:

Section 34 Security: Includes espionage, subversion of governments, engaging in terrorism, being a danger to the security of Canada, engaging in acts of violence that might endanger persons in Canada, or being a member of an organization that engages in espionage, subversion or terrorism. The majority of MR cases are inadmissible for past and/or present membership in a terrorist organization; this does not require that the person committed these acts, only that the group did.

Section 35 Human or international rights violations: Includes senior officials from governments that Canada has designated as having engaged in terrorism, human rights violations or genocide, war crimes or crimes against humanity; or persons subject to international sanctions. Persons who have been directly involved or complicit in committing a war crime or crime against humanity are not eligible to apply for MR (IRPA 35(1)(a)).

Section 37 Organized criminality: Includes being a member of an organization that has engaged in a pattern of joint organized indictable criminal activity; or engaging in people smuggling, human trafficking or money laundering.



Inventory Management

- Aging and highly litigated inventory : average age of case almost 7 years
- 302 cases
 - 80 percent are inadmissible on security grounds → the majority for past membership in terrorist organizations
 - Prior to May 2013, many MR requests were submitted without an admissibility finding; some cases may not require relief and some may be granted H&C by IRCC
- 14 new requests per year on average; intake ≈ output, inventory is not declining
- Processing a Ministerial relief application is onerous (Annex A):
 - Assessments are complex
 - 9 months on average per file from start to delivery to the Minister
 - No regulatory framework for governance on when, how and who can file an MR application

- **There is a need to explore alternative options to address the aging and highly litigated MR inventory, which has become a significant litigation challenge.**
- **The inventory currently stands at 302 cases and the average age of cases is 6.59 years.**
- **Due to litigation and changes in case law, some of these applications have been re-assessed or re-determined by the Minister multiple times over the years (the oldest such case originally dates from 1996), contributing to the existing backlog.**
- **The vast majority are security cases, usually inadmissible for membership in a terrorist organization.**
- **Approximately half of the cases in the inventory do not have an admissibility decision. Despite this, the Minister is nonetheless required to render a decision because there is currently no requirement for individuals to have a final determination of inadmissibility to apply for relief.**
- **CBSA receives 14 new requests per year on average. Approximately 14 Ministerial decisions are rendered per year (in the past five calendar years, the Minister rendered 61 MR decisions, 56 of which were denials of relief), essentially maintaining the inventory.**

- **Under the current process** (as shown in Annex A) and timeframes, without additional measures or resources, or new applications, **the existing inventory would not be cleared prior to 2032** (16 years).
- **Processing under s. 42.1(1) is onerous, involving voluminous materials; the requirement to address complex legal arguments; the disclosure of draft recommendations to applicants for comment (for fairness reasons); and, the need to demonstrate that the Minister considered all potentially relevant information and arguments.**
- **As a result, assessments average 9 months per file from start to delivery to the Minister, approximately one-third of which is devoted to the disclosure process.**
- **Currently, efficient inventory management is hampered by there being no parameters regarding when or how foreign nationals may request relief, and by the inability to close files which may no longer require relief.**

ADVICE TO THE MINISTER



Way Forward – Enhanced Governance

- Proposed regulations which would formalize the Ministerial relief application process were pre-published in the Canada Gazette in June 2015

PROTECTION • SERVICE • INTEGRITY

5

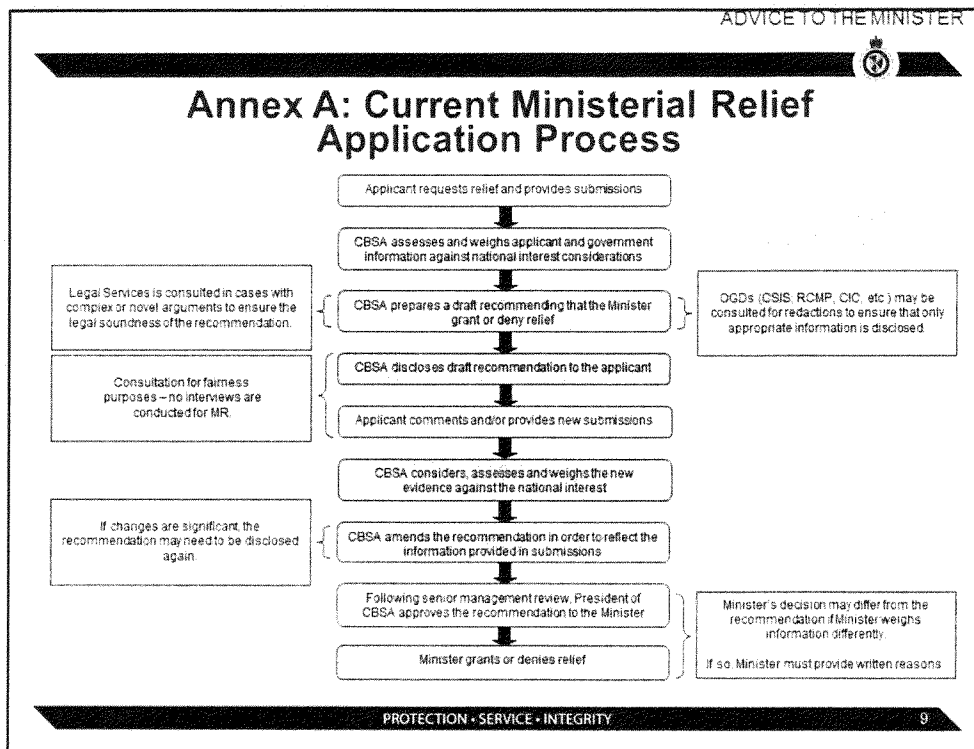
- To address this, CBSA has drafted a proposed regulatory framework, pre-published in the Canada Gazette in June 2015, to formalize the Ministerial relief application process by:



File Prioritization

- Applications are currently processed chronologically, based on date of receipt of the MR application
- Exceptions to this approach are generally court-guided (e.g. *mandamus*, consent, court-monitored agreement)

- **Applications are currently processed chronologically, based on date of receipt of the MR application.**
- **While year of receipt is the predominant consideration, other factors such as changes in jurisprudence, court-mandated timelines and re-determination orders also impact file prioritization.**



Current Ministerial Relief Process

[REFER TO DIAGRAM ON SLIDE]

- CBSA Ministerial Relief Unit (MRU) receives MR request and applicant submissions.
- MRU analysts compile data on the applicant from:
 - enforcement/immigration systems (FOSS, NCMS, GCMS, STS, and CPIC); and,
 - CBSA/IRCC/IRB hardcopy records from immigration and enforcement examinations or investigations:
 - TRV, PRV, refugee applications
 - inadmissibility and security reports, admissibility hearings
 - litigation records; etc.
- Information (potentially thousands of pages) is reviewed and assessed against the national interest in accordance with the SCC *Agraira* legal test.
- MRU prepares a draft recommendation which may involve:
 - Possible external consultations: CSIS, IRCC and the RCMP
 - Possible internal consultations: NSSD, Danger Assessment Unit
 - Possible DOJ review: novel or complex issues or high litigation risk

- Mandatory: approval to disclose from CBSA senior management
- Draft recommendation and all associated attachments are disclosed to the applicant, ensuring that they are fully aware of what information will be considered by the Minister and they have had an opportunity to have their concerns fully addressed. The applicant has 60 days in which to make further submissions.
- New submissions are evaluated against the national interest test. If they significantly alter the CBSA's analysis, the recommendation may be re-disclosed to the applicant.
- The final recommendation is forwarded to the CBSA President for signature and subsequent delivery to the Minister for decision. This entire process could take 6-9 months for a straightforward case.
- The Minister is asked to either adopt the CBSA's recommendation to deny or grant relief, or provide his own reasons should his decision be contrary to the CBSA's recommendation. Once a decision is made by the Minister, the CBSA's MRU notifies the applicant of the decision.



Canada Border
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ADVICE TO MINISTER
PROTECTED B

For action

MINISTERIAL RELIEF - INVENTORY MANAGEMENT

For the Minister

PURPOSE

To seek your concurrence on the Canada Border Services Agency's (CBSA) proposed approach to referring Ministerial relief (MR) cases for your consideration.

ISSUE

BACKGROUND

Under the *Immigration and Refugee Protection Act* (IRPA), persons inadmissible on the grounds of security, organized criminality and certain provisions related to war crimes or crimes against humanity may be granted relief by the Minister of Public Safety (the Minister) should the latter be satisfied that it is not contrary to the national interest to do so. While the CBSA provides a recommendation, IRPA prohibits the Minister from delegating this decision. If the Minister concurs, the CBSA's assessment legally becomes the Minister's "reasons" when challenged before the courts. If the Minister disagrees with the CBSA recommendation, reasons must be provided and form the grounds for judicial review.

The CBSA has an aging and highly litigated inventory of 302 MR applications. Fourteen new MR requests are received per year on average, approximately the same volume as Ministerial decisions rendered¹, essentially maintaining the inventory. Several factors have hampered more effective inventory management. Among them were: high litigation volumes; a series of divergent court decisions² impacting the MR program; an increasingly complex legal

¹ In the past five calendar years, the Minister rendered 61 MR decisions, 56 of which were denials of relief.

² Due to litigation and changes in case law, some MR applications have been re-assessed by the CBSA and/or re-determined by the Minister multiple times over the years (the oldest such case originally dates from 1996).

ADVICE TO MINISTER
PROTECTED B

environment and MR assessments in the aftermath of the 2013 Supreme Court (SCC) *Agraira* (MR) ruling; and, a lack of statutorily-imposed structure surrounding application procedures.

The last issue, the lack of structure, will be addressed by a proposed regulatory framework, pre-published in the *Canada Gazette* in June 2015,

STATUS

ADVICE TO MINISTER PROTECTED B

NEXT STEPS

ADVICE TO MINISTER
PROTECTED B

RECOMMENDATION

Please note that I am available to discuss, or have CBSA officials brief your staff, at your convenience.

Linda Lizotte-MacPherson
President

Minister's Response

I approve ☐

I do not approve ☐

The Honourable Ralph Goodale, P.C., M.P.

Date

c.c.: Mr. Malcolm Brown, Deputy Minister
Public Safety Canada

Bosse, Julie

From: Vansickle, Tracey
Sent: March 29, 2017 11:46 PM
To: Lutfallah, Jennifer
Cc: Byrne, Patrick; Henderson, Lana
Subject: MR FAQs
Attachments: 2017 MR FAQs - updated 29mar2017 CLEAN.docx

Hi Jennifer,

I just realized that I did not give the MR FAQ document to Raquel at the end of this afternoon's meeting. I've attached the version with the most recent updates in case you'd like to email it to her.

Thanks,

Tracey Vansickle

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Canada Border
Services Agency Agence des services
frontaliers du Canada

Border Services



Services frontaliers

Ministerial Relief – Frequently Asked Questions

1. *Why is Ministerial relief (MR) intended to be “exceptional”?*

Parliament purposefully implemented an inadmissibility regime that captures not only individuals who have themselves committed or engaged in certain impermissible acts (e.g. terrorism, subversion by force, organized criminality, etc.), but also those who have been members of organizations or representatives of governments that have engaged in such acts. This means that an individual's involvement with, or support of, such entities – past or present – is inherently incompatible with the values of Canadian society and the democratic spirit of the Canadian federation, and is thus contrary to our national interest. It is for this reason that a permanent exemption from these most serious inadmissibilities is, as acknowledged by the courts, meant to be an exception, and requires that an applicant must satisfy the Public Safety (PS) Minister, *personally*, that the granting of relief would not be contrary to the national interest. Unlike the majority of Ministerial authorities under the *Immigration and Refugee Protection Act* (IRPA), MR is one of the few decisions that cannot be delegated to officials.

2. *Many MR applicants seem to have never personally engaged in any sort of violence or criminal activity. Why would the granting of relief to these people be contrary to the national interest?*

Most MR applicants are inadmissible for their membership in an organization (linked to terrorism, organized crime, etc.) or for having held senior positions in a designated regime (i.e., one responsible for committing acts of terrorism, war crimes or human rights violations). Many of these applicants claim to have never been personally engaged in violent or criminal activities during their membership or years of service. Whether or not the individual was directly involved in violence, terrorist acts or criminal activity on behalf of the entity they served, their participation in its other activities contributed to, enabled or supported the agenda or the operations of the organization/regime as a whole, and/or they may have exerted influence or benefitted from their association with the entity in question.

There are many factors considered in the MR context in relation to the nature and extent of an individual's involvement with an organization/regime that go beyond direct involvement in violence or criminal activity. They include, but are not limited to: circumstances surrounding the individual's affiliation with a group/government, including reasons for joining and whether it was voluntary; length of involvement; nature of deeds undertaken on behalf of the entity; whether the individual willingly participated in activities; whether they progressed through the ranks, exerted influence or benefitted from the affiliation; and whether they disassociated from the entity at the first available opportunity; etc. MR also looks at whether the applicant has provided consistent and plausible information, throughout their statements given to Canadian officials and/or foreign authorities (if applicable), with respect to their association with the entity that has resulted in their inadmissibility.

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3. Many MR applicants claim that they were not official or formal members of organizations, simply supporters or sympathizers who engaged in low-level or minor activities. Why are they still considered members under the inadmissibility provisions?

The courts have ruled that, in the admissibility context, membership should be broadly defined. An individual is not required to be an "official", "formal" or "card-carrying" member in order to meet the definition of membership under the IRPA. What is of relevance is that the person provided support, material or otherwise, to the organization with which they associated. Many individuals claiming to have been only supporters or sympathizers do, therefore, meet this criterion for "membership".

It is important to note that determining membership in an organization and the corresponding finding of inadmissibility fall under the responsibility of the Immigration and Refugee Board (IRB) and/or Immigration, Refugees and Citizenship Canada (IRCC), and can be challenged through the courts. Therefore, an inadmissibility finding is not meant to be reviewed during an MR assessment; it is accepted as an established fact.

Whereas a finding of inadmissibility is related solely to whether there exist reasonable grounds to believe that a person was (or is) a member of an organization, MR looks at case-specific factors surrounding the nature, extent and quality of an individual's membership, as well as national security and public safety (NSPS) and other national interest factors that go beyond membership, in order to determine whether there exist any special circumstances warranting relief, notwithstanding the applicant's underlying inadmissibility. This is often a challenging task as it may be difficult to ascertain the true extent and nature of an applicant's role and activities on behalf of the organization, given that MR is not an investigative process: the assessment is based solely on an applicant's own admittance, unless other intelligence or evidence is available. This is why MR goes through painstaking efforts to assess the totality of an applicant's statements given to government officials, security and law enforcement agencies, and/or quasi-judicial and judicial bodies (these may include immigration and refugee applications, interview notes, hearing transcripts, security reports, case memoranda from IRCC or CBSA officers, court testimonials, and other records), as well as the applicant's own submissions toward their MR application. Discrepancies and inconsistencies found in an applicant's accounts are identified, such as, for example, any belated attempts to minimize, downplay or contradict their previous, more incriminating statements given to Canadian officials. All of the above information is then carefully analyzed and ascribed weight in the context of the national interest assessment before a final conclusion to recommend denying or granting relief is reached.

4. Many inadmissible senior officials of designated regimes do not seem to have been complicit in the planning or execution of war crimes or human rights violations. Why would the granting of relief to these people be contrary to the national interest?

Individuals found to be complicit in war crimes or human rights violations are in fact barred from applying for MR. Parliament has thus clearly determined that complicity in international crimes is too serious an offence to ever justify relief. With respect to inadmissible senior officials of designated governments for whom complicity has not been established, Parliament concluded that such individuals must bear responsibility for the activities of the regime that they chose to serve. In the assessment of national interest, consideration would be given to exceptional circumstances that may warrant relief despite the person meeting the test for inadmissibility.



5. Why is the CBSA recommending that relief be denied to an individual who has no history of association with a criminal or terrorist organization in Canada, is successfully established here, and/or does not have a criminal record?

While an applicant's activities and establishment in Canada, including their lack of criminal activity here, may be relevant considerations within the national interest spectrum, MR is not temporally limited by means of a "forward-looking" test. Section 33 of the IRPA stipulates that the grounds constituting inadmissibility are not limited to present activities, but rather include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur. While the passage of time since an individual's disassociation from an impugned entity may be given more or less weight by the Minister in relation to other case-specific circumstances, it alone neither automatically negates the past activities that led to the finding of inadmissibility nor diminishes the requirement to satisfy the Minister that relief would not be contrary to the national interest.

6. Why is the CBSA recommending that relief be denied to an individual who does not seem to pose a current or future danger or threat to Canada's security or safety?

The terms "national security and public safety" and "national interest" have never been defined, either in legislation or by the courts. Both of the latter, however, indicate that while NSPS considerations are the predominant elements of national interest, there is no requirement for the Minister to find that the individual poses a current or future threat/danger to Canada in order to deny relief. In fact, in the seminal MR case to date (*Agraira*), the Supreme Court of Canada upheld the Minister's decision to deny relief wherein the Minister's reasons did not specifically refer to the issue of current or future threat posed by the applicant. Furthermore, the current legislation (IRPA paragraph 42.1(3)), updated in 2013, explicitly states that, "[i]n determining whether to make a declaration [of relief]...in his or her analysis, [the Minister] is not limited to considering the danger that the foreign national presents to the public or the security of Canada". The Supreme Court also stated that relief is a discretionary exercise in which the Minister is entitled to deference regarding his interpretation of what is in the national interest.

Again, this does not mean that the absence of a defined danger is not considered as a relevant factor in the context of the national interest assessment, only that it may not necessarily be given significant weight, depending on many other case-specific circumstances.

7. If most MR decisions are negative, why are so many MR applicants still in Canada?

This happens for a number of reasons. MR is not directly related to the removal process. That is, an outstanding MR application does not stay removal of an inadmissible foreign national, and nor does a denial of relief by the Minister of Public Safety automatically result in an existing removal order becoming enforceable.

Issuance of a removal order to a foreign national requires a finding of inadmissibility. Until new MR regulations came into force on March 10, 2017, there was no requirement to have a final inadmissibility determination prior to applying for MR. In addition, while this is no longer the practice, past IRCC policies resulted in many cases in the inventory being reported for inadmissibility but not being referred to the IRB for a final determination while the MR decision was pending. Therefore, the individual could not be issued a removal order.



In addition, for foreign nationals who have been issued a removal order, there are various avenues of recourse and stay mechanisms which may delay removals of inadmissible foreign nationals for many years, and sometimes indefinitely. Among these are individual deferrals of removal granted by CBSA officers (usually brief, to accommodate special needs); PS Minister- or court-granted stays (usually pending a specific process or decision); IRCC Pre-Removal Risk Assessments (PRRA, which could lead to protected person status and ultimately permanent residence); region- or country-specific Temporary Suspension or Administrative Deferral of Removals (which may be in place for years before conditions normalise or the risk has diminished in those areas); United Nations Interim Measure Requests (asking the CBSA to postpone removal until the UN has reviewed the case); and Humanitarian and Compassionate applications¹ to the IRCC Minister (which, if granted, overcome any inadmissibility preventing status in Canada).

Finally, many MR applicants in the CBSA's active inventory are Convention refugees or protected persons living in Canada who, at present, cannot be removed due to their protection under the UN *Convention relating to the Status of Refugees* (the Convention).

8. *Are you saying that many MR applicants are Convention refugees who are going to remain in Canada even if MR is denied to them? Why not just grant them MR rather than letting them remain in this state of "limbo"?*

Granting refugee protection to a foreign national means that Canada has fulfilled its primary international obligation with respect to that individual by respecting the principle of *non-refoulement*, ensuring that they are not returned to a place where they may be persecuted. While not constituting permanent resident status under the IRPA, Convention refugee protection allows a foreign national living in Canada to benefit from many rights and freedoms in accordance with the UN Convention (e.g., health care, education, employment, etc.). These individuals are also able to travel abroad (with the exception of returning to their country of claimed persecution if they are travelling on a refugee travel document).

Being afforded protection under the UN Convention does not prevent a person from being deemed inadmissible to Canada, as becoming a permanent resident is subject to meeting a number of statutory requirements. While the IRPA and related regulations relieve protected persons from some inadmissibilities (e.g., medical) when they are applying for permanent residence in Canada, the legislation does not exempt them from the most serious inadmissibilities - those which fall under sections 34 (security), 35 (international or human rights violations), 36 (criminality) and/or 37 (organized criminality). The legislative scheme established by Parliament thus recognized and intended that some Convention refugees inadmissible on serious grounds may never acquire permanent resident status here.

While an inadmissible foreign national's Convention refugee status in Canada is always considered in the context of a national interest assessment, it generally is not deemed to be a determinative factor warranting relief. In other words, protected person status, in and of itself, does not entitle an applicant to MR and thus the privilege of being granted permanent residence and eventually Canadian citizenship.

¹ With the June 20, 2013 coming-into-force of Bill C-43, foreign nationals found to be inadmissible under IRPA sections 34, 35 and 37 are no longer eligible for H&C consideration. However, H&C applications received prior to that date will continue to be processed, including those who have also applied for MR.



9. So, are these inadmissible refugees going to stay in Canada indefinitely?

That is impossible to predict and depends on many case-specific factors. Some seriously inadmissible foreign nationals with protected person status may, in fact, end up staying in Canada indefinitely. Others whose refugee protection has later been ceased² or vacated³, or those seriously inadmissible protected persons for whom the IRCC Minister is of the opinion that they should not be allowed to remain in Canada due to the nature and severity of their acts or because they constitute a danger to the public or to the security of Canada (commonly referred to as a 'danger opinion'), may be removed.

Foreign nationals with serious inadmissibilities who have lost protected person status are still entitled to a limited PRRA prior to removal from Canada. Those found to be at risk of persecution, torture, risk to life or cruel and unusual treatment or punishment cannot be deported.

A protected person for whom a danger opinion is being considered may also request a PRRA, in which case the IRCC Minister's delegate is required to balance the danger that the foreign national represents to the public against the risk posed to the foreign national should they be removed. If the Minister's delegate concludes that the risk to the foreign national outweighs the danger to Canadians, that positive PRRA decision results in a temporary stay of removal which is subject to future review. If, however, it is determined that the danger to Canadians is predominant, the foreign national will be removed from Canada in spite of the identified risks they may face.

² Cessation – The person no longer requires Convention refugee or protected person status (e.g., conditions have changed in their country of nationality; they have voluntarily re-availed themselves of the protection of their country of nationality; they have obtained protection/citizenship from another country, etc.).

³ Vacation – The person's refugee status is removed because it was obtained by misrepresentation.

Bosse, Julie

From: Vansickle, Tracey
Sent: March 28, 2017 11:34 AM
To: Byrne, Patrick; Henderson, Lana
Cc: Ducharme, Nyiri; Richard, Jean-Francois
Subject: Typo in the MR deck for PO briefing at 1pm
Attachments: Min_deck_MR FINAL Nov 25, 2016 with speaking points UPDATED 24mar2017.pptx
Importance: High

Just noticed that there is a typo in the deck:

Slide 7, end of bullet 2 (and the same in bullet 3 of the notes):

- The regulations were tabled in Parliament in July 2015, approved by the Minister on February 10, 2017, and came into force on March 22, 20167

I've attached an amended copy with the corrections incorporated. Could this please also be updated in CCM?

Thanks, and sorry about that.

Tracey



Canada Border
Services Agency

Agence des services
frontaliers du Canada



Ministerial Relief

Briefing to the Minister

November 28, 2016

Updated March 3, 2017




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Purpose

- To provide you with an overview of the Ministerial Relief (MR) authority
- To brief you on the proposed Ministerial Relief Regulations
- To discuss associated procedural enhancements



Inadmissibility Framework

IRPA provides a *principles-based* framework for inadmissibility:

- Protect safety and security of Canada and Canadians
- Meet international treaty obligations

| PS Minister | | IRCC Minister | |
|--------------------|--|----------------------|-------------------------------------|
| Section 34 | Security | Section 36 | Serious criminality and criminality |
| Section 35 | Human or international rights violations | Section 38 | Health |
| Section 37 | Organized criminality | Section 39 | Finance |
| | | Section 40 | Misrepresentation |
| | | Section 40.1 | Cessation |
| | | Section 41 | Non-compliance |
| | | Section 42 | Inadmissible family member |

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- The enforcement of inadmissibility under IRPA is guided by a principles-based framework.
- To be admissible, the same criteria apply, whether you seek entry to Canada as a visitor, to work or to permanently live.
- The criteria speak to the safety and security of Canada and serve to uphold Canada's obligations under international treaties (such as the UN refugee convention).
- As an example:
 - membership in a terrorist group (e.g. LTTE) is a ground for inadmissibility:
 - time does not remove your inadmissibility;
 - nor does your role (youth wing, pamphleteer);
 - nor do the ultimate objectives of the group matter – for example, the regime you had sought to subvert may be a corrupt dictatorship and your objectives democratic but if force/subversion is used, you are inadmissible under IRPA.
- The threshold to establish inadmissibility differs depending on the inadmissibility:
 - "Reasonable grounds to believe" for serious inadmissibilities under the

responsibility of the PS Minister, and

- A slightly higher standard – “balance of probabilities” (greater than a 50% likelihood) for grounds of inadmissibility which fall under the IRCC Minister
- These thresholds are a lower standard than in a criminal court (which is “beyond a reasonable doubt”)
- As such, the immigration legislation provides significant latitude to the government to render decisions which ensure the integrity and security of the immigration and refugee systems.



What is Ministerial Relief?

- Ministerial relief (MR) is a recourse of last resort to overcome the most serious immigration inadmissibilities: security; human or international rights violations; and, organized criminality
- Authority can only be exercised by the Minister of Public Safety and Emergency Preparedness (PS Minister)
- To grant relief, the PS Minister must be satisfied that relief is not against the national interest - onus placed on the applicant to demonstrate that relief is not against the national interest
- When granted, MR clears the path for a foreign national to apply to Immigration, Refugees and Citizenship Canada (IRCC) to regularize their status in Canada (e.g., permanent residence)
- MR decisions are reviewable by the Federal Court (FC)
 - Most negative decisions are litigated

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- Ministerial relief (MR) is a recourse of last resort that is available to individuals who seek to overcome the most serious inadmissibilities under IRPA for:
 - security
 - human or international rights violations
 - organized criminality
- It is a safety valve to address disproportionate consequences of certain provisions of the IRPA inadmissibility regime which were intended to have broad application in order to protect Canadian security and values.
- While the CBSA provides a recommendation on whether it would be contrary to the national interest to grant relief, MR is an authority exercised only by the Minister of Public Safety, and may not be delegated.
- In seeking relief, the onus is on the applicant to demonstrate their case by identifying the specific circumstances of their situation.
- When granted, MR clears the path for a foreign national to apply to IRCC to regularize their status in Canada, e.g., the person can apply to IRCC for temporary or permanent resident status.
- MR decisions are reviewable by the Federal Court (FC), with most negative decisions being litigated.

Background:

Section 34 Security: Includes espionage, subversion of governments, engaging in terrorism, being a danger to the security of Canada, engaging in acts of violence that might endanger persons in Canada, or being a member of an organization that engages in espionage, subversion or terrorism. The majority of MR cases are inadmissible for past and/or present membership in a terrorist organization; this does not require that the person committed these acts, only that the group did.

Section 35 Human or international rights violations: Includes senior officials from governments that Canada has designated as having engaged in terrorism, human rights violations or genocide, war crimes or crimes against humanity; or persons subject to international sanctions. Persons who have been directly involved or complicit in committing a war crime or crime against humanity are not eligible to apply for MR (IRPA 35(1)(a)).

Section 37 Organized criminality: Includes being a member of an organization that has engaged in a pattern of joint organized indictable criminal activity; or engaging in people smuggling, human trafficking or money laundering.

Ministerial Relief is not...

- Applicable to individuals directly involved or complicit in **war crimes or crimes against humanity**; criminal inadmissibility; or any other inadmissibility grounds that fall under the purview of the Minister IRCC
- A reassessment of the inadmissibility finding of the Immigration and Refugee Board
- A mechanism to delay removal or any other process (although applicants can separately request a deferral of removal to CBSA or the Federal Court)
- A mechanism to change or provide status
- An alternate recourse mechanism to assess humanitarian and compassionate (H&C) considerations (H&C is a Minister IRCC role)

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- MR does not apply to persons directly involved or complicit in war crimes or crimes against humanity.
- It also does not apply to criminal and other inadmissibilities.
- Individuals seeking exemption from other inadmissibilities, including all forms of criminality other than organized crime, must apply to the IRCC Minister.
- While an MR decision may consider the circumstances surrounding a person's inadmissibility, it must not reassess the inadmissibility finding itself.
- Instead, the Minister must be satisfied that relief is warranted despite the person meeting the test for inadmissibility.
- MR does not delay removal or any other process, although applicants do have the option of separately requesting a deferral of removal from CBSA or the Federal Court.
- The granting of Ministerial Relief also does not change status, or automatically confer status upon an applicant.
- Nor is it an alternate mechanism to have Humanitarian and Compassionate (H&C) aspects considered, which fall within the responsibility of the IRCC Minister.



Legislation and Case Law

- In 2011, Federal Court of Appeal ("*Agraira*"): favourably narrowed the scope of MR to **national security** and **public safety** considerations
- C-43 (*Faster Removal of Foreign Criminals Act*) of June 2013 sought to enshrine this test as well as remove H&C eligibility for serious grounds
- Many cases have co-existent H&C application with IRCC that pre-date C-43
- Concurrently, as the new act came into force, SCC rendered its decision on *Agraira*
 - affirmed that security and safety elements are "predominant" considerations
 - **but** also expanded the factors Minister must also assess, e.g., IRPA objectives, international obligations, and "personal factors"
- All cases without Ministerial decision, recently decided and those under court scrutiny pre-*Agraira* have had to be re-assessed against *Agraira*
- Early success on interpretation and application of the new *Agraira* decision:
 - 18 decisions were rendered by the Minister, 12 were litigated:
 - 11 concluded in Minister's favour
 - One was discontinued by the applicant

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- A number of court rulings have influenced the nature of processing or interpretation of MR - particularly decisions rendered by the Federal Court (FC), Federal Court of Appeal (FCA) and Supreme Court of Canada (SCC) on the MR *Agraira* case between 2009 and 2013. In addition, the courts overturned many past cases and ordered the Minister to re-determine them, sometimes more than once.
- In 2011, the FCA in *Agraira* favourably narrowed the scope of MR to only national security and public safety considerations.
- In June 2013, Bill C-43 (the *Faster Removal of Foreign Criminals Act*) enshrined the FC's interpretation in law. It also removed H&C eligibility for persons who are inadmissible on grounds that can be overcome by MR (IRCC will still process those MR applicants who had pending H&C requests prior to the new law).
- The SCC *Agraira* ruling, also in June 2013, affirmed that security and safety elements are the "predominant" – but not only – considerations.
- The SCC expanded the factors that the Minister must also consider, such as the objectives of IRPA, Canada's international obligations, and undefined "personal factors" presented by MR applicants that may be relevant to the assessment of national interest. This has resulted in longer and more complex recommendations.
- As a result, all cases without Ministerial decision, 17 cases that had just been decided by the Minister, and all cases under court scrutiny at the time the SCC decision was released, had to be assessed or re-assessed against the SCC decision.
- Thus far, the FC has upheld all of the Minister's post-SCC decisions (a 100% success rate vs. past rates as low as 20%) and strongly endorsed the CBSA's assessments.
 - 12 of the 18 decisions rendered by the Minister were litigated
 - The FC upheld nine (9) of the Minister's decisions, denied leave to appeal in two (2) cases, and one (1) applicant discontinued their litigation in mid-2016



Regulatory Package

- Proposed MR regulations were pre-published in June 2015 in Part I of the *Canada Gazette* - No feedback from stakeholders was received
- The regulations were tabled in Parliament in July 2015, approved by the Minister on February 10, 2017, and came into force on March 22, 2017
- The regulations established procedures for MR applications, including:
 - when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - when a case may be closed (e.g., once a person has obtained PR status or repeatedly failed to respond to the CBSA)
- Benefits include:
 - Greater transparency for applicants and efficiency by avoiding lengthy processing of incomplete or unnecessary applications
 - Enhanced inventory management by enabling file closure where the individual abandons their application or MR is no longer required

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- Proposed MR regulations were pre-published on June 20, 2015 in Part I of the *Canada Gazette*. There had been pre-consultation with stakeholders, some changes had been made in response, and no additional feedback was received after pre-publication.
- The proposed amendments were tabled in both Houses of Parliament as required by subsection 5(2) of the IRPA on July 22, 2015.
- They were approved by the Minister on February 10, 2017, and came into force on March 22, 2017.
- The regulations established procedures for applications, including:
 - how to submit an MR request (via a new mandatory application form)
 - when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - when a case may be closed (e.g., if a person is found to be admissible, has obtained PR status, or repeatedly failed to respond to the CBSA)

Benefits of these regulations will include:

- Greater transparency for applicants (via the detailed form and guidelines) and efficiency by avoiding lengthy processing of incomplete or unnecessary applications; and,
- Enhanced inventory management by enabling closure of files where the individual has abandoned the application or no longer requires MR

Implementation of the Regulations

- 321 cases, with average case 7.8 years old:
 - 253 (79 %) security cases
 - 28 (9 %) human rights violations cases
 - 40 (12 %) organized criminality cases
- Aging inventory is a significant litigation challenge (42 cases are legacy pre-CBSA cases): for fairness reasons older files take precedence
- Regulations will enable more effective program management:
 - Approximately 10% of inventory cases can be closed initially
 - For new applicants, forms/guidelines are available on-line with clear eligibility requirements: e.g., provide complete application, must already be found to be inadmissible, must not already have PR status
 - Agency will regularly contact clients with pending cases to determine if they wish to continue or have abandoned their application

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- The pending MR inventory contains 321 cases, with an average age of 7.8 years
- The vast majority of MR applications are related to inadmissibility on security grounds, primarily under IRPA paragraph 19(1)(f) for membership in a terrorist organization:
 - 253 (79 %) security cases
 - 28 (9 %) human rights violations cases
 - 40 (12 %) organized criminality cases
- The aging inventory is a significant litigation challenge (42 cases are legacy pre-CBSA cases). For fairness reasons older files take precedence.
- It is anticipated that the volume of *mandamus* cases (asking the courts to order the Minister to render a decision within a particular time period) will grow
- Regulations will enable more effective program management:
 - Approximately 10% of inventory cases can be closed initially
 - For new applicants, forms/guidelines are available on-line with clear eligibility requirements: e.g., provide complete application, must already be found to be inadmissible, must not already have PR status
 - Agency will regularly contact clients with pending cases to determine if they wish to continue or have abandoned their application



Next Steps

- Before presenting an MR recommendation, the CBSA conducts due diligence by:
 - consulting partners (e.g. CSIS, RCMP, IRCC, DOJ)
 - reviewing refugee and inadmissibility decisions
 - assessing consistency of the applicant's submissions and testimony
 - developing comprehensive organizational histories and backgrounds in cases involving 'membership' through info from open sources and OGDS such as GAC, IRB, CSIS, RCMP
 - assessing and weighing applicant submissions
 - disclosing draft recommendations to applicant for comment and considering further submissions by applicant
- CBSA has provided five cases for Ministerial consideration (1 decision)
- We would welcome discussion on the way forward for transmission of future cases

Annex A: Recourse Mechanisms

| Mechanism | Who can apply | Decision Maker | Outcome |
|--|---|--|--|
| Humanitarian and Compassionate considerations (Permanent Residence) | Any persons who: <ul style="list-style-type: none"> • Are inadmissible • Do not meet requirements of IRPA • Except those inadmissible for security, organized criminality, human and international rights violations | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a permanent resident |
| Pre Removal Risk Assessment (PRRA) | Persons under removal: <ul style="list-style-type: none"> • failed refugee claimants are barred from applying for one year • failed refugee claimants from designated countries of origin are barred for three years | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a protected person and may be eligible for Permanent Residence |
| Limited PRRA | Persons under removal: <ul style="list-style-type: none"> • serious inadmissibility | IRCC Delegate | <ul style="list-style-type: none"> • Person does not get protected person status • Removal is stayed until the risk is no longer applicable |
| Danger Opinion | A Protected Person cannot be removed from Canada to a country where they would be at risk unless a danger opinion has been granted | IRCC Delegate | <ul style="list-style-type: none"> • Protected Person is a danger to the public or the person should not be allowed to remain in Canada on the basis of their danger to the security of Canada • Person is removed from Canada |
| Ministerial Relief | Persons inadmissible for security, organized criminality, senior officials in designated regimes, international sanctions | Minister of PS (non-delegable) | <ul style="list-style-type: none"> • Person is no longer inadmissible on those grounds <p>Note: persons who committed or were complicit in war crimes cannot apply for or be granted relief</p> |
| Stay of Removal | Persons under an enforceable removal order | Federal Court, Minister of PS, PS Delegate | <ul style="list-style-type: none"> • Temporary measure to suspend a removal • It does not change or provide status |

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Annex B: MR Case Details

| 321 Active Ministerial Relief Applications | | | | | |
|--|---|--|-----------------------------------|------------------------------|------------------|
| Applicants in Canada (221) | | | Applicants outside of Canada (99) | | |
| Not subject to removal order | Subject to removal order but not yet enforced | Subject to removal order but not enforceable | Subject to removal order | Not subject to removal order | Removal enforced |
| 79 | 42 | 102 | 6 | 62 | 29 |

| Applicants in Canada (221) | | | | | Applicants outside of Canada (97) | |
|----------------------------|---------------------|-------------------|---------------------|-------------------|-----------------------------------|---------------------|
| Foreign nationals | Convention refugees | Protected persons | Permanent residents | Canadian citizens | Foreign nationals | Convention refugees |
| 77 | 110 | 16 | 18 | 2 | 96 | 2 |

| Ministerial relief | |
|---|---|
| Former State | Current State |
| Person could apply for MR at any time | Person may apply for MR only after a finding of inadmissibility |
| No formalized application process for seeking MR | Requires the use of a designated application form when applying for MR, including mandatory information |
| No authority to return or close an MR application, requiring all applications to be decided personally by the Minister of Public Safety and Emergency Preparedness whether MR was required or not | Greater clarity for applicants concerning information to be provided in support for an MR application |
| | MR applications may be closed if the person has been granted permanent resident status, or fails to respond to requests from the CBSA |
| | Applications may be returned unprocessed if they do not comply with the new procedures or the applicant has not been found inadmissible |
| | This will avoid expending CBSA and Ministerial resources on applications which may not ultimately require MR |

- Previously, regulations did not exist for MR, and IRPA did not require a formal application process or set parameters around this relief mechanism.
- The new regulations, which came into force on March 22, 2017:
 - Limit applications to individuals who have received an inadmissibility decision;
 - Allow an application to be returned if it is incomplete;
 - Allow the CBSA to close an application in specified circumstances (e.g., applicant is subsequently found to be admissible; applicant obtains permanent resident status; application is withdrawn; or, following an attempt by the CBSA to contact an MR applicant, no response is received)
- The new regulations will help the CBSA reduce the backlog of cases; allow the CBSA to efficiently triage new MR applications; and avoid the CBSA processing, and the Minister rendering decisions on, cases which do not require MR. It will benefit applicants by providing an informed and transparent application process and clear guidelines regarding the assessment of relief applications.

Bosse, Julie

From: Ismail, Naureen
Sent: March 17, 2017 03:53 PM
To: Calma, Gordan; Hanton, Ashley; Vansickle, Tracey
Cc: Campbell, Jamison; Gloster, Craig
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Hi everyone,

Thanks,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch

Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

Conseillère principale en programme – Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

From: Calma, Gordan
Sent: March 16, 2017 12:50 PM
To: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I think it is certainly feasible, and I will be helping Naureen and Ashley (probably even signing some letters). However, before we start mailing them out, we need to decide:

- 1) How many interest letters in total do we want to mail out this year (10, 20, 30,...)?
- 2) For which files?

Thanks.
Gordan

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

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Agence des services frontaliers du Canada / Gouvernement du Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

From: Hanton, Ashley
Sent: March 16, 2017 12:44 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>
Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I would say that we could send out an additional 10 letters in April on top of the 33 (since we were originally thinking we were going to be sending out around 40 anyways).

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Vansickle, Tracey
Sent: March 16, 2017 12:32 PM
To: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig

<Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Perfect. Thanks! Given the small number of cases, does anyone have a concern that we could not also have the first interest letter mailed out by the end of April?

From: Hanton, Ashley

Sent: March 16, 2017 12:16 PM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Yes, 33 is correct. There are also around 9 cases where we have identified that the applicants cannot be located for other immigration processes etc. and which we will probably be able to close later (following an interest letter).

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Calma, Gordan

Sent: March 16, 2017 12:11 PM

To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I think you are correct. There are around 33 cases that can be immediately closed pursuant to R24.4(b) – this number does not account for the cases that Janis identified (those would probably have to be closed later pursuant to R24.4(a)). Ashley is double-checking right now, so please stand by.

Thx.
Gordan

From: Campbell, Jamison

Sent: March 16, 2017 12:02 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: Re: URGENT: Number of MR cases which can be closed with C-43 regs

The ones on the look ahead are all cases that we will tackle with our first wave of letters (ie cases that have either been landed by IRCC or are pending landing). I'm not sure what the source of the 42 or 43 cases is but I can assume they include the cases previously identified by Janis as ones where we can't locate the individual. There was an excel sheet created and saved on the shared drive.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey

Sent: Thursday, March 16, 2017 11:50 AM

To: Hanton, Ashley; Calma, Jordan; Ismail, Naureen; Campbell, Jamison; Gloster, Crain
Subject: URGENT: Number of MR cases which can be closed with C-43 regs

Hi folks,

It's been mentioned a few times recently that there are about 42 or 43 cases that can be closed when the regs are in force. There are only 33 cases listed on the Look Ahead. What is the source for the rest of the cases – the old calculations that were done for the inventory that Janis had started? We have to provide a fairly firm number for the President/EVP briefing, so if someone could please confirm asap, that would be helpful.

Thanks.



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PROTECTED B - LITIGATION PRIVILEGE

For action

MINISTERIAL RELIEF *MANDAMUS* LITIGATION

For the President

ISSUE

To seek your approval of a litigation strategy with respect to *mandamus* applications filed at the Federal Court (FC) by Ministerial Relief (MR) applicants. Currently, the average age of cases in the inventory is approximately eight years. A decision is requested by May 26, 2017.

BACKGROUND

On March 16 2017, the FC issued an unfavorable decision to the Minister in the *Momenzadeh-Tameh mandamus* litigation (attachment 2). The Court agreed that there was reasonable justification for the delay in processing the MR application between 2008 and the 2013 SCC decision in *Agraira* (attachment 1). However, it found the delay since June 2013 to be unreasonable, sending a strong message that a processing time of more than four years in this case was unreasonable.

... were filed subsequent to the *Momenzadeh-Tameh* decision (attachment 3). The Ministerial Relief Unit (MRU) expects more *mandamus* litigation as applicants are inquiring about the status of their application, relying on the *Momenzadeh-Tameh* decision to point out that the delay has been unreasonable in their case.

The current MR inventory is comprised of 292 cases, 217 of which were filed before January 2012. Given the *Momenzadeh-Tameh* decision,

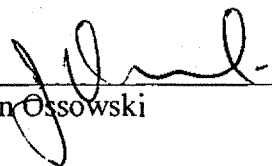
CONSIDERATIONS

PROTECTED B - LITIGATION PRIVILEGE

RECOMMENDATION

President's response

I approve ☒
I do not approve ☐


John Ossowski

May 31/17
Date

ATTACHMENTS

1. Summary of *Agraira v. Canada (Public Safety and Emergency Preparedness)*, [2013] 2 SCR 559
2. Summary of *Morteza MOMENZADEH-TAMEH v MPSEP*, 2017 FC
3. Summary of pending *Mandamus* Litigation cases

Approved by:


Associate Vice-President: Peter Hill, 613-952-2531, signature

Director General: Jennifer Lutfallah, 613-948-9041

Director: Richard StMarseille, 613-954-3923

Author: Julie Bossé, A/Manager, MRU, 613-952-1501

Date:


26/5/17



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PROTECTED B - Advice to Minister

For action

MINISTERIAL RELIEF – LETTER CONCERNING *MANDAMUS* LITIGATION

For the Minister

ISSUE

To inform you of a letter that the Ministerial Relief Unit (MRU) has received in which counsel is threatening to seek an order for *mandamus* in the Federal court (FC) if a decision in respect of his client's Ministerial Relief (MR) Application is not rendered by July 1, 2017.

BACKGROUND

There is a backlog of MR cases that has been accumulating for many years. Several factors have contributed to the backlog: court decisions resulting in numerous re-determinations being ordered by the courts or re-assessments and re-disclosures by the MRU in light of the new legal test from the Supreme Court of Canada (SCC) decision in *Agraira*; the greater level of complexity involved in assessing cases as a result of courts' decisions, including the SCC decision in *Agraira*; staffing issues; budget reductions over the past two fiscal years; and a lack of structure surrounding the application process before this was addressed through the creation of regulations that were implemented in March 2017.

On March 16, 2017, the FC issued an unfavorable decision to the Minister in the *Momenzadeh-Tameh mandamus* litigation (ANNEX 2). The Court agreed that there was reasonable justification for the delay between 2008 and the 2013 SCC decision in *Agraira*. However, it found that the delay since June 2013 was not justified in view of all the work that had been done on the applicant's relief application prior to that time.

PROTETED B - Advice to Minister

Two additional *mandamus* applications were filed at the end of March 2017, subsequent to the *Momenzadeh-Tameh* decision. The MRU expects an increase in *mandamus* litigation as applicants are inquiring about the status of their applications, relying on the *Momenzadeh-Tameh* decision to point out that the delay has been unreasonable in their case. The MRU has received representative forms in three cases indicating that applicants have approached counsel in respect of their MR application.

CONSIDERATIONS

Mandamus litigation is resource-intensive for the MRU and stakeholders, including the Department of Justice (DOJ).

NEXT STEPS

John Ossowski
President

ATTACHMENT(S)

- 1.
2. Summary of *Morteza MOMENZADEH-TAMEH v MPSEP*, 2017 FC 288

Campbell, Jamison

From: Ott, Lydia
Sent: June 15, 2017 09:42 AM
To: Bosse, Julie
Cc: Henry, David
Subject:
Attachments:

Hi Julie,

Thanks,

Lydia



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Ministerial Relief

Briefing to the Minister's Staff

June 2, 2017

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PROTECTION • SERVICE • INTEGRITY

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Purpose

To provide you with an overview of:

- Ministerial Relief (MR).
- The legal test and administrative law principles applicable to MR decision-making.

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- Today I will provide you with an overview of Ministerial Relief (MR) with a particular focus on the legal test and administrative law principles governing the decision-making process.



Ministerial Relief Overview

Ministerial relief (MR) is:

- used to overcome the most serious immigration inadmissibilities: security (s. 34), human or international rights violations (ss.35(1)(b) & 35(1)(c)), and organized criminality (s. 37(1)).
- a decision that only the Minister of Public Safety and Emergency Preparedness (PS Minister) can make.
- a remedy that clears the path for a foreign national to apply to Immigration, Refugees and Citizenship Canada (IRCC) to regularize their status in Canada (e.g. apply for permanent residence status).
- a reviewable decision by the Federal Court (FC) but the PS Minister's decision will be given deference by the Court.

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- MR is a remedy of last resort available to overcome the most serious grounds of inadmissibility:
 - security (s. 34)
 - human or international rights violations (ss.35(1)(b))
 - organized criminality (s. 37(1)).
- Only the Minister of Public Safety and Emergency Preparedness (PS Minister) can render a decision to deny or grant relief.
- MR is a remedy that allows a foreign national to apply for immigration status in Canada despite their inadmissibility.
- Any decision rendered by the Minister may be reviewed by the Federal Court if applicants challenge the decision by way of judicial review. However, the Court will give deference to the PS Minister's decision.



Ministerial Relief Overview

Ministerial Relief is not:

- a reassessment of the inadmissibility finding.
- a remedy that leads to an automatic stay of removal.
- a remedy that grants the individual immigration status.
- an alternative form of a humanitarian and compassionate (H&C) review, which is an exemption considered by the IRCC Minister.
- available to individuals directly involved or complicit in war crimes or crimes against humanity (para. 35(1)(a)) or criminal inadmissibility (s. 36) or any inadmissibility grounds under the responsibility of the IRCC Minister.

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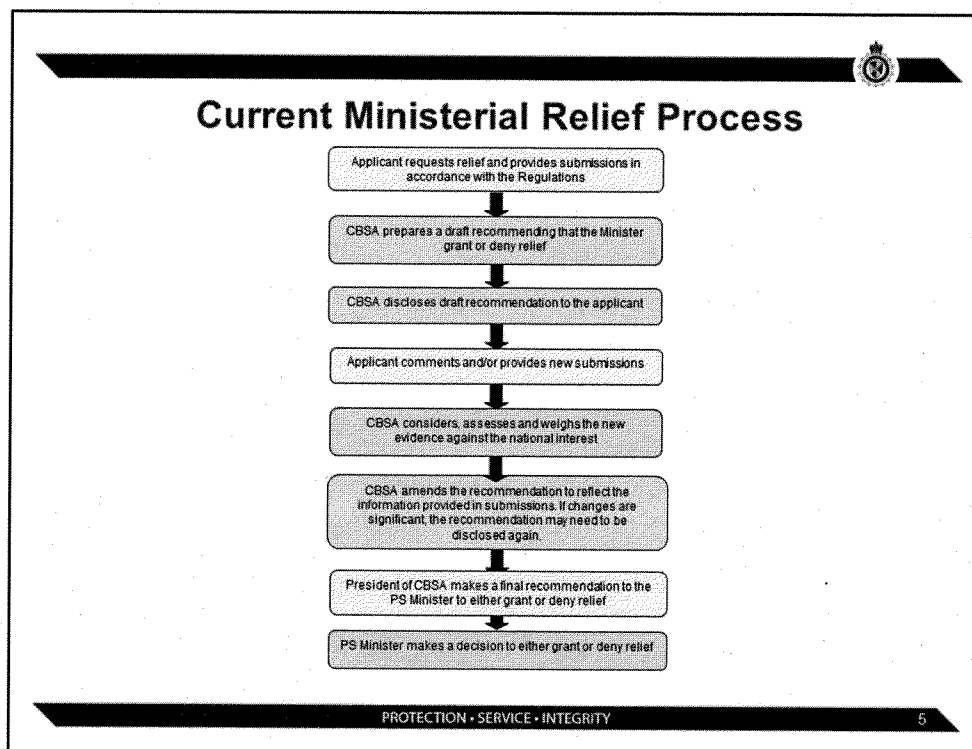
4

It is important to keep in mind that:

- MR is not a reassessment of the inadmissibility finding made by an IRCC officer or the Immigration Division. While an MR decision may consider the circumstances surrounding a person's inadmissibility, it must not reassess the inadmissibility finding itself.
- MR is not a remedy that leads to an automatic stay of removal while the process is pending or even after a decision is rendered.
- MR is not a remedy which provides the individual immigration status even if relief is granted by the Minister. The individual will still need to apply to IRCC to obtain immigration status.
- MR is not an alternative form of a humanitarian and compassionate (H&C) assessment, which is an exemption considered by the IRCC

Minister.

- MR is not available to individuals directly involved or complicit in war crimes or crimes against humanity (para. 35(1)(a)), those who have committed criminal offences (s. 36) or for any other inadmissibility grounds under the responsibility of the IRCC Minister.



I will now walk you through the current Ministerial Relief Process.

- The CBSA Ministerial Relief Unit (MRU) receives an MR request and applicant's submissions.
- An MRU analysts compile data on the applicant from various sources including the following:
 - enforcement/immigration systems (FOSS, NCMS, GCMS, STS, and CPIC); and,
 - CBSA/IRCC/IRB hardcopy records from immigration and enforcement examinations or investigations:
 - TRV, PRV, refugee applications
 - inadmissibility and security reports, admissibility hearings
 - litigation records; etc.
- Information (potentially thousands of pages) is reviewed and assessed against the national interest in accordance with the SCC *Agraira* legal test which will be discussed in the next slide.

- The MRU prepares a draft recommendation which may involve:
 - Possible external consultations: CSIS, IRCC and the RCMP
 - Possible internal consultations: NSSD, Danger Assessment Unit
 - Possible DOJ review: novel or complex issues or high litigation risk
 - Mandatory: approval to disclose from CBSA senior management
- A draft recommendation and all associated attachments are disclosed to the applicant, ensuring that they are fully aware of what information will be considered by the Minister and they have had an opportunity to have their concerns fully addressed. The applicant has 60 days in which to make further submissions.
- New submissions are evaluated against the national interest test. If significant changes are made to the recommendation, it may be re-disclosed to the applicant with a further opportunity to make submissions.
- The final recommendation is forwarded to the CBSA President for signature and subsequently delivered to the Minister for decision. This entire process could take 6-9 months for a straightforward case.
- The Minister can either adopt the CBSA's recommendation to deny or grant relief, or provide his own reasons should his decision be contrary to the CBSA's recommendation. Once a decision is made by the Minister, the CBSA's MRU notifies the applicant of the decision.

National Interest Test

- The applicant bears the onus to satisfy the PS Minister that his or her presence in Canada would not be detrimental to the "national interest".
- "**National interest**" relates predominately to national security and public safety but does not exclude "**personal factors**" relating to the applicant that may be relevant to national interest (Test developed by the SCC in *Agraira* – June 2013).
- "**Personal factors**" can be viewed as falling within both H&C and MR decisions. For MR decisions, "personal factors" can assist in determining whether the applicant's presence in Canada is detrimental to the "national interest".
- "Personal factors" form a different purpose in H&C decisions where other considerations are looked at such as hardship on the family.

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I will now explain how "National Interest" has been interpreted by the Court.

- First, MR applicants have the onus to satisfy the Minister that their presence in Canada would not be detrimental to the national interest (*Al Yamani v. Canada (Minister of Public Safety and Emergency Preparedness)*, 2014 FCA 213 at para. 29).
- In order to grant relief, the PS Minister must be satisfied that it would not be against the "national interest". "National interest" has never been defined in legislation. The June 2013 Supreme Court (SCC) *Agraira* decision guides the assessment of MR applications. It reaffirmed that national security and public safety elements should be the Minister's "predominant" considerations in rendering an MR decision.
- Examples of considerations that are relevant to the assessment of **national security** include:
 - Reasons for joining and (if applicable) later leaving an impugned organization, such as whether the applicant joined voluntarily; awareness of, and agreement with, the organization's illicit activities; material or other benefits gained from their association; and when, whether and why they ceased their

- involvement.
 - The nature, length and level of the applicant's involvement, including activities undertaken; financial, ideological or other support provided to the entity; position or authority within the organization's structure; recruitment of others; the length and timing of their involvement (including later in Canada); and whether they were present when prohibited activities occurred.
 - The depth of commitment demonstrated, e.g., did the individual continue involvement despite suffering hardships or facing serious repercussions?
- While the predominant considerations in granting MR are national security and public safety, **personal factors** may have an impact on the assessment of the applicant's personal characteristics for the purpose of determining whether he or she can be viewed as a threat to the security of Canada. (*Agraira*, para. 84)
- The SCC in *Agraira* took a broad approach to the concept of "**national interest**" suggesting this concept does not exclude other considerations such as personal factors, Canada's international obligations, and values of a democratic state including Charter values. (Para. 62 & 85 SCC *Agraira* decision)
- In *Agraira*, the SCC referenced that the following factors played a key role in the Minister's findings that he was not satisfied that Mr. Agraira's continued presence in Canada would not be detrimental to the NI: Mr. Agraira's contradictory and inconsistent accounts of his involvement with the LNSF; a group that has engaged in terrorism; the fact that Mr. Agraira was most likely aware of the LNSF's previous activity; and the fact that the applicant had had sustained contact with the LNSF. (Para. 61 *Agraira* decision)
- The SCC in *Agraira* does not define NS/PS and does not require the Minister to define either of these terms. The national security considerations that will need attention in the MR application will depend largely on the submissions provided by an applicant when initially applying for MR and when replying to a draft recommendation.

If pressed:

Note: Applications received prior to the coming-into-force of the June 20, 2013 legislative amendments (Bill C-43) are assessed under former subsections 34(2) and 35(2), and paragraph 37(2)(a) of the IRPA. The

former provisions provide for Ministerial authority to grant relief to applicants who satisfy the Minister that their ***"presence in Canada would not be detrimental to the national interest"***. Applications received after the coming-into-force of Bill C-43 are assessed under the new legislation, now found at paragraph 42.1(1) of the IRPA, which states that the Minister may make a declaration of relief if the applicant satisfies the Minister that ***"it is not contrary to the national interest"***. All cases being process for the foreseeable future fall under former category due the aging inventory.

Administrative Law Principles and Decision-Making in MR

- Under s. 6(3) of the IRPA, MR cannot be delegated. The PS Minister must **personally** make an MR decision.
- The MR application process is transparent and meets procedural fairness requirements. Specifically, a finalized draft recommendation is disclosed to the applicant prior to it being forwarded to the Minister for decision. This process provides the applicant the opportunity to present further submissions to address concerns raised by the CBSA. This structured MR process is key to the Government's success in defending MR decisions.

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- As mentioned previously, only the PS Minister has the authority to make a decision on MR applications.
- The MR process explained earlier is transparent and meets procedural fairness requirements. The disclosure of the draft recommendation to the applicant provides him/her with the opportunity to present further submissions to address concerns raised by the CBSA and to provide additional information that he applicant believes is relevant to the assessment of national interest.
- This current rigorous process has been key to the recent Government's success in defending MR decisions. (i.e. 100% success in defending MR decisions challenged at the FC after the SCC issued the *Agraira* decision in June 2013, compared to 20% in the past)

If pressed for information about the number of MR decisions challenged:

- From June 20, 2013 to present, nineteen (19) decisions were rendered by the Minister – twelve (12) were litigated:
 - FC denied leave in two (2) challenges;
 - FC dismissed nine (9) applications after full JR hearing;
 - Notice of discontinuance filed by one (1) applicant.

Administrative Law Principles and Decision-Making in MR (continued)

- The PS Minister is entitled to receive and rely on the analysis and recommendations made by officials. So long as the Minister turns his/her mind to the issue requiring decision, the adoption of the recommendations made by officials is appropriate.
- Where the PS Minister adopts the CBSA recommendation, the CBSA recommendation becomes the Minister's reasons for decision.
- It is particularly important that the Minister provide reasons when he disagrees with a CBSA recommendation to grant relief given the high likelihood of litigation.

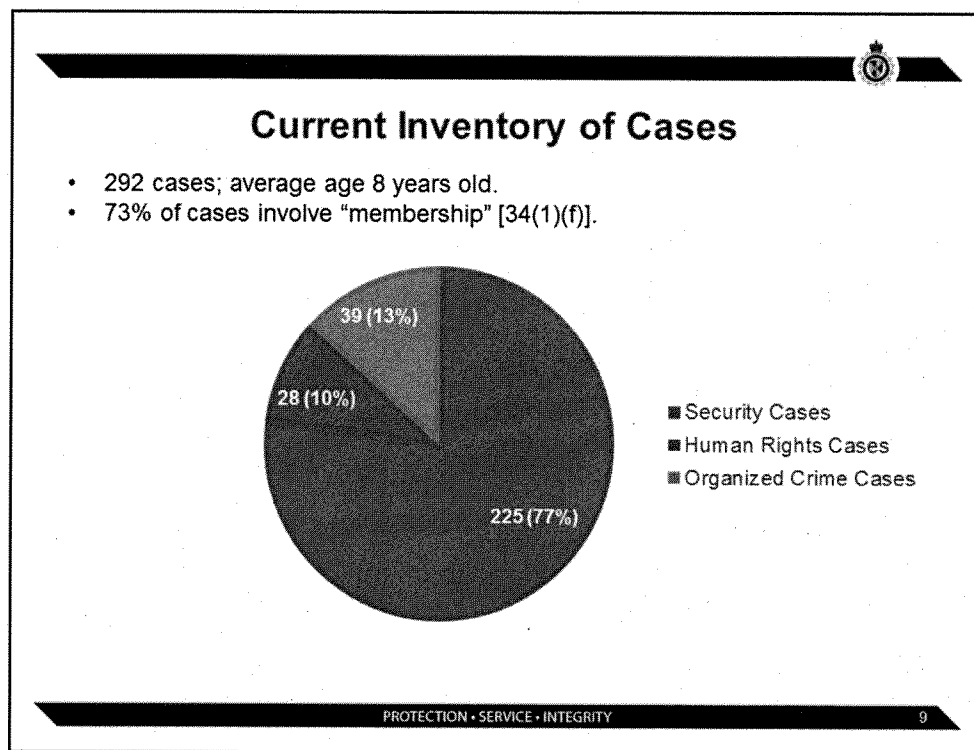
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- The PS Minister is entitled to receive and rely on the analysis and recommendations made by officials. So long as the Minister turns his/her mind to the issue requiring decision, the adoption of the recommendations made by officials is appropriate.
- The Minister is entitled to deference and the decision will be found to be reasonable as long as all the relevant factors to the MR application are weighed and considered (*Agraira* para. 91)
- Where the Minister adopts the recommendation contained in a CBSA briefing note, the briefing note will be taken to be the Minister's reasons (*Al Yamani* at para. 52 & *Nawal Haj Khalil v. Canada (Minister of Public Safety and Emergency Preparedness)*, 2014 FCA 213 at para. 2)
- The Minister may consult the annexes attached to the recommendation but there is no requirement to read every annex. In the Security Certificate Context, the Federal Court rejected Mr. Mahjoub's argument that the Minister must personally review every annex before signing the security certificate. (See *Mahjoub*, 2013 FC 1095 at paras. 104-119).
- If the Minister disagrees with a recommendation to grant relief it is

very likely that the decision will be challenged at the Federal Court, therefore it is important that the Minister provides reasons. (For example, in *Agraira* the Minister denied relief after disagreeing with a recommendation by the President to grant relief. The Minister provided reasons which were upheld by the SCC).

- In the event the Minister grants an MR despite the CBSA's recommendation to deny relief, the obligation to provide reasons is reduced as it is highly unlikely that the applicant will judicially review this decision.
- There is currently four (4) cases awaiting a decision by the PS Minister and five (5) cases that the MRU recently forwarded to the President for approval. For some of these MR applications, timelines were established either by the Court (*Momenzadeh-Tameh*) or by way of a settlement offer outside of Court
- It is important that once seized of a CBSA recommendation, the Minister render its decision to ensure that MR decisions are based on current information. If too much time has passed there is a risk that the Court may conclude that the MR decision is based on dated information.



- There are 291 applications pending in the current MR inventory , the average age of inventory is 8 years.
- 105 cases were inherited from IRCC when CBSA was created; 43 cases remain in the inventory today.
- The vast majority of MR applicants involve inadmissibility for membership in an organization under s.34 (1)(f).
- The aging MR inventory poses a significant litigation challenge for *mandamus* applications.
- It also may increasingly pose an operational challenge for the Agency as a spike in *mandamus* applications or related litigation could quickly overwhelm the limited resources available to process these files.



Mandamus and Ministerial Relief

- **Mandamus** ("we command") is a very fact-specific and highly discretionary remedy where a superior court can compel the government to do something.
- In the MR context, if a mandamus is issued, the court is compelling the PS Minister to render an MR decision, usually within a specific period of time.
- If the mandamus order is not complied with, the PS Minister will be in contempt of Court.

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- In a mandamus application, the Court will examine the context of each case in reaching its decision, including determining the reasonableness of the delay, which party was responsible for the delay, and whether the balance of convenience rests with the person requesting mandamus. The latter includes a consideration of the operational realities that apply to the decision.
- If a mandamus order is issued, the court will compel the PS Minister to render an MR decision, usually within a specific period of time.
- The PS Minister will be in contempt of Court if the court-ordered mandamus is not complied with (i.e. if the Minister does not render a decision within the timeframe imposed by the Court).

Mandamus and Ministerial Relief

- The aging MR inventory poses a significant litigation challenge for mandamus applications.
- The Federal Court issued a mandamus in the *Momenzadeh-Tameh* case. (March 16, 2017)
- There were two mandamus applications filed with the Federal Court following the decision in *Momenzadeh-Tameh*. (March 29 and 30, 2017)
- For fairness reasons and to minimize litigation risk, the CBSA policy is to process MR applications based on year of receipt.

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- The recent Federal Court decision in *Momenzadeh-Tameh* highlights the key risks associated with the growing backlog of MR applications.
- In *Momenzadeh-Tameh*, the Court noted that to demonstrate that a delay is unreasonable, an applicant must establish the following three things: 1) that the delay is *prima facie* longer than required by the nature of the process in question, 2) that the applicant and his counsel are not responsible for the delay, and 3) that the responsible authority has not provided a satisfactory justification for the delay.
- The Court found there was reasonable justification for some of the delay. Specifically, the Court found some of the delay was reasonable (from 2008 to 2013 while awaiting the SCC decision in *Agraira*). However, it found that the delay since June 2013 (45 months) was not reasonable in view of all the work done on the applicant's relief application up until that time.
- The Court went on to write that the four-year delay in processing Mr. Momenzadeh-Tameh's application is "at the outer limit of what is

reasonable" and the additional 45-month delay to be unreasonable.

- While the Court accepted the general proposition that it should be reluctant to issue an order of mandamus given that Ministerial relief raises issue of national security and that mandamus might have the effect of abbreviating an investigation, it found this does not justify a complete carte blanche regarding the time to make decisions under the IRPA.
- The Federal Court allowed the judicial review application in part, and endorsed a revised timetable agreed to by the parties that could see a decision rendered within 6 to 8 months. Based on the delay, the Court ordered costs against the PS Minister.
- Since the *Momenzadeh-Tameh* decision, two more mandamus applications have been filed.
-
-

Annex A: MR Case Details

Table 1

| Ministerial Relief Applicants in the Removals Stream | | | | | |
|--|---|--|-----------------------------------|------------------------------|------------------|
| Applicants in Canada (185) | | | Applicants outside of Canada (97) | | |
| Not subject to removal order | Subject to removal order but not yet enforced | Subject to removal order but not enforceable | Subject to removal order | Not subject to removal order | Removal enforced |
| 75 | 39 | 81 | 6 | 62 | 29 |

Table 2

| Immigration Status of Ministerial Relief Applicants | | | | | | |
|---|---------------------|-------------------|---------------------|-------------------|-----------------------------------|---------------------|
| Applicants in Canada (105) | | | | | Applicants outside of Canada (97) | |
| Foreign nationals | Convention refugees | Protected persons | Permanent residents | Canadian citizens | Foreign nationals | Convention refugees |
| 73 | 106 | 15 | 1 | 0 | 95 | 2 |

PROTECTION • SERVICE • INTEGRITY

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** Caveat: Many Ministerial relief applicants have multiple active and/or outstanding immigration processes. These statistics are therefore always in flux and the numbers provided should be read as fairly reliable approximations rather than 100% accurate facts. This information may change on a daily basis.*

Campbell, Jamison

From: Campbell, Jamison
Sent: April 24, 2017 09:32 AM
To: StMarseille, Richard
Cc: Calma, Gordan; Vansickle, Tracey; Hanton, Ashley
Subject: RE: Min Relief - priority requests
Attachments: MOMENZADEH-TAMEH (MEK) 12apr2017 DISCLOSED.doc

CBC and Toronto Star articles on Momenzadeh-Tameh:

<https://www.thestar.com/news/immigration/2017/03/30/court-tells-public-safety-minister-to-hurry-up-and-decide-on-iranian-refugee.html>

<http://www.cbc.ca/news/politics/immigration-public-safety-minister-decisions-court-1.4046314>

Link to MR regulations:

Guide for applying - <http://www.cbsa.gc.ca/travel-voyage/gadr-gddd-eng.html>

Application form - <http://www.cbsa.gc.ca/publications/forms-formulaires/bsf766-eng.html>

Immigration and Refugee Protection Regulations where text of MR regulations can be found - <http://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/>

I've attached the draft of the Momenzadeh-Tameh recommendation which was disclosed.

Thanks,

Jamison

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

Conseiller principal de programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des Services Frontaliers du Canada/ Gouvernement du Canada
jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 24, 2017 9:25 AM
To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Subject: RE: Min Relief - priority requests

Yes.

And this as a new Q on age as well, which Ashley just provided.

As requested. The average age is **7.8**, but we've rounded it to **8** in previous stats to Sr. Mgmt.

Let me know if you need anything else.

| Active Ministerial Relief Cases | |
|--|----------------|
| 1996 | 1 |
| 2000 | 2 |
| 2001 | 1 |
| 2002 | 10 |
| 2003 | 24 |
| 2004 | 12 |
| 2005 | 17 |
| 2006 | 17 |
| 2007 | 14 |
| 2008 | 26 |
| 2009 | 35 |
| 2010 | 40 |
| 2011 | 28 |
| 2012 | 9 |
| 2013 | 12 |
| 2014 | 15 |
| 2015 | 20 |
| 2016 | 15 |
| 2017 | 3 |
| TOTAL | 301 |
| Average age | 8 years |

Richard St Marseille

a/Director

Policy Division, Enforcement and Intelligence Programs

Programs Branch

Canada Border Services Agency / Government of Canada

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Directeur, p.i.

Division des politiques, Programmes d'exécution de la loi et du renseignement

Direction générale des programmes

Agence des services frontaliers du Canada / Gouvernement du Canada

Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Campbell, Jamison

Sent: April 24, 2017 9:23 AM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: RE: Min Relief - priority requests

Richard, please see attached.

Do you also need the draft that was disclosed, the link to the article and the links to the regs as Peter has requested? Or has that been provided?

Thanks,

Jamison

Jamison Campbell

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Canada Border Services Agency/ Government of Canada
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jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 24, 2017 9:04 AM
To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests
Importance: High

Hi Jamison,

As discussed, please action asap by answering these questions in tracked changes to what we sent up last Friday.

Ops is doing the chronos so you don't need to worry about those; also, don't worry about the backlog strategy question either.

Tks

Richard St Marseille

a/Director
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Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: April 24, 2017 8:44 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
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10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Télécopieur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)
Sent: April 24, 2017 8:33 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>
Subject: Re: Min Relief - priority requests

Did Agency provide applicant w draft MR recommendation by April 16, 2017? If yes, plse send me copy.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:23 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Re: Min Relief - priority requests

Hi Jennifer - plse also send me link to the new MR regs.
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:16 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Min Relief - priority requests

Morning Jennifer:

I reviewed the materials on weekend - very helpful.

For this morning to assist my prep:

Plse send me the recent article on the MR case that has attracted Mino attention.

What is Rule 9 (ref to receipt by MRU April 19, 2017 (ref Q4 on the Qs+As v2)?

Plse send me chrono

Plse send me chrono

Expect Minister may be interested in our strategy to deal with the backlog, incl so as to avoid more mandamus.

Alex - plse schedule phonecall 10:30 - 11am bwn me and Jennifer today so we can discuss MR / any 'loose ends.'

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

Ministerial Relief – Inventory and Litigation Questions and Answers: April 21, 2017

Q1: Current backlog (pre and post new regulations coming into force)?

Current backlog: There are 301 MR applications in the inventory. No new applications since the coming-into-force of the MR regulations have been accepted for processing.

Q2: How many MR files are in the Minister's Office (MO) for a decision, and how many will be provided this year?

Four MR files are currently in the MO awaiting a decision.

The Ministerial Relief Unit (MRU) anticipates to provide between 8 and 10 additional finalized MR recommendations to the MO this calendar year.

Please note that this level of production may vary depending on factors such as: any potential salary reductions applicable to the unit, turnover/attrition, ability to conduct replacement staffing actions on a timely basis, ad hoc requests for program proposals which may detract from case processing, changes in file prioritization with respect to any new and current litigation (e.g., *mandamus* applications, court-ordered redeterminations, etc.), extensions requested by applicants to provide post-disclosure submissions, submissions provided by applicants that may necessitate significant revisions and/or re-disclosure, etc.

Q3: Recent Court Order Decision on Mandamus Application: (

Q4: Other Mandamus Applications filed (how many, when will they be heard...)

As far as the MRU is aware, the following two (2) *mandamus* applications were filed with the Federal Court following the ruling in *Momenzadeh-Tameh*:

Q5: Anything else to provide an overview of the current litigation environment and current realities of the MR program?

Since the coming-into-force of the MR regulations on March 10, 2017, the MRU has successfully closed twenty (20) MR applications for applicants who have obtained permanent resident status. This reduced the inventory numbers from 321 to 301 applications. The MRU expects to close an additional 10 cases by the end of April, 2017, which will reduce the inventory to 291 cases. Of note, pursuant to the new regulatory amendments, the MRU has also returned, unprocessed, 100% (2 out of 2) of MR applications received post-coming-into-force of the MR regulations (for non-compliance with the new regulations). Accordingly, the regulations have thus far had a positive impact on the inventory of cases.

While concurrently working toward reducing its inventory of cases, the MRU is currently experiencing a high volume of additional requirements, specifically relating to the March 10, 2017 coming-into-force of MR regulations. This includes, for instance, triaging of cases in light of the regulatory requirements and closure authorities.

Moreover, following the unfavourable Federal Court ruling in *Momenzadeh-Tameh*, the MRU has been experiencing an increased number of status update requests from applicants, counsel and MPs. In light of comments made by the ruling judge pertaining to reasonable timeframes for MR decisions, several of the recent inquiries refer to the age of the application and request/demand that a decision be rendered by the Minister.

As stated above, if a court-ordered deadline is not met, the Minister may be held in contempt of court.

The lack of any clerical or administrative support in the Division, including in MRU, means that officer level employees continue to be required to perform these duties (e.g. copying, shredding, printing, collating, reconciling financial and administrative transactions etc.), which detracts from their core application processing functions.

Executive Summary

Ministerial Relief Privacy Impact Assessment

Ministerial Relief

Pursuant to subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA) and related regulations, a foreign national can apply for a declaration of relief – commonly referred to as "Ministerial relief" (MR) – if they have been found inadmissible to Canada under section 34 (security); paragraphs 35(1)(b) or (c) (human or international rights violations); and/or subsection 37(1) (organized criminality) of IRPA, resulting in a removal order being issued against them by the Immigration and Refugee Board (IRB) and/or an application for temporary or permanent residence being refused by Immigration, Refugees and Citizenship Canada (IRCC) in Canada or overseas.

The Ministerial Relief Unit (MRU) of the Canada Border Services Agency (CBSA) receives and processes MR applications, including drafting recommendations to the Minister of Public Safety and Emergency Preparedness ("the Minister") on whether relief should be granted or denied. MR decisions rest solely with the Minister and cannot be delegated to government officials. MR is a discretionary authority, intended to be exceptional, and it is not meant to review or re-determine an inadmissibility finding.

This Privacy Impact Assessment (PIA) examines privacy risks associated with the CBSA's MR program in light of the regulatory amendments to the *Immigration and Refugee Protection Regulations* (IRPR) relating to MR, which came into force on March 10, 2017 and were published in the *Canada Gazette* on March 22, 2017. The PIA assesses the management of personal information collected, used, disclosed and retained by the CBSA during the MR application process only.

Prior to the coming-into-force of the regulatory amendments, there was no formalized application framework for MR. Foreign nationals typically requested relief by providing documentary submissions with varying degrees of relevance to a decision on whether or not to grant relief. In addition, there was no formal criteria establishing when a person may apply for relief. Until recently, IRCC officers were directed to refer a person for consideration for MR and to await the outcome of the relief process prior to either rejecting their immigration application (i.e., temporary or permanent resident application) or referring allegations of inadmissibility to the IRB for determination. As a result, the current MR inventory includes applications from individuals who have yet to receive a final decision on admissibility. This has resulted in resources being used to assess applications of individuals who may not be inadmissible, and as a result, may not require relief.

The above-mentioned amendments to the IRPR brought greater clarity, consistency and control to the MR application process, case intake and inventory management. These amendments:

- establish when a foreign national may submit an application (i.e., once a final inadmissibility determination has been made). This will allow the CBSA to focus resources on processing MR cases where inadmissibility has already been established and upheld by the IRB or the courts, and will effectively reduce the future intake of cases where MR is not required;

- prescribe the use of an MR-specific application form (BSF766 - Application for a Declaration of Relief under Subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), available on the CBSA's external website at: <http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-eng.html>);
- allow the CBSA to return an MR application, unprocessed, when certain requirements are not met;
- allow applications to be closed when an applicant does not respond to a notice requiring them to confirm their intention to proceed with their application within the specified timeframe, or when other remedies have been obtained;
- require applicants to provide the Minister with updated address and contact information while applications for Ministerial relief are in process;
- address transitional cases impacted by the new regulations by clarifying which aspects of the regulatory amendments would apply to those requests for MR received prior to the coming-into-force of the MR regulations.

Protecting Your Personal Information

The personal information collected, used, disclosed and retained as part of this process is necessary to support the Agency's research and advice to the Minister on the merits of an application for MR. The regulatory measures augment the effectiveness of the MR application process by requiring the timely provision of information relevant to the assessment process. Collection and disclosure is minimized to safeguard the rights of applicants, and to reduce the risk of a breach of their personal information. The information collected is used to inform advice and recommendations to the Minister. **Personal information collected is retained for a period of 80 years or until the individual reaches 100 years of age and only after the file has been closed.**

The following non-exhaustive list of personal information related to MR applicants will be collected and managed by the CBSA MRU:

- the applicant's place of birth, gender, marital status, and the names of any former spouses or common-law partners;
- the applicant's telephone number and email address, if any;
- the applicant's former countries of citizenship or former countries of nationality;
- the applicant's education, including the name and location of all elementary and secondary schools and post-secondary, technical and vocational institutions attended, and the start and end dates for the periods during which they attended each school or institution;
- the applicant's criminal history, in any country, including Canada;
- the applicant's work history, including volunteer work, beginning from the age of 16 years, including start and end dates for each period of work, their job title and work description and the employer's name and address;
- the applicant's international travel history beginning from the age of 16 years, including a list of the countries visited, the purpose of the visits, the dates and duration of the visits and any immigration status sought from or granted by any country visited;

- whether the applicant was determined to be inadmissible under section 34, paragraph 35(1)(b) or (c) or subsection 37(1) of the IRPA, the date on which and the city and country in which the determination was made, and whether the determination resulted in a decision or a removal order referred to in subsection 24.1(1) of the IRPR;
- whether the applicant was ever arrested, detained or put in jail.

The above-listed information is collected via the standardized MR application form (BSF766), which is to be completed by the applicant and provided to the MRU, accompanied by any additional information the applicant feels relevant to the national interest assessment. Drafting a recommendation for the Minister requires assessing this information within the context of other immigration information in the possession of both IRCC and the CBSA.

Right of Access

Individuals are informed of the authority for collection, purpose, uses and disclosure of their personal information in a Privacy Notice Statement that appears on the application form.

When the CBSA MRU has prepared a recommendation for the Minister, a copy of the recommendation, and all information used in support of the recommendation (less any third party information that has been redacted), is provided to the applicant. The individual is invited to make any additional submissions prior to the recommendation and associated documents being referred to the Minister for decision.

Individuals may formally request access to their personal information, or access to corporate records related to or created by the CBSA MRU by filing a request with the Access to Information and Privacy Division. More information about this can be found on the Access to Information and Privacy page at: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-aiprp/menu-eng.html>.

Accountability

Individuals with concerns about the collection, use, disclosure or retention of their personal information may issue a complaint to CBSA Access to Information and Privacy Division. Complaints should be made in writing, and include the individual's name, contact information, and a brief description of their concerns. Contact information for the Access to Information and Privacy Division at the CBSA can be found at: <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-aiprp/contact-eng.html>.

Sommaire

Évaluation des facteurs relatifs à la vie privée **des dispenses ministérielles**

Dispense ministérielle

Aux termes du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR) et du règlement connexe, un étranger peut présenter une demande au Canada ou à l'étranger de déclaration de dispense – communément appelée « dispense ministérielle » – s'il a été interdit de territoire au Canada au titre de l'article 34 (Sécurité), des alinéas 35(1)b) ou c) (Atteinte aux droits humains ou internationaux) et/ou du paragraphe 37(1) (Activités de criminalité organisée) de la LIPR, donnant lieu à la prise d'une mesure d'interdiction de territoire à son égard par la Commission de l'immigration et du statut de réfugié (CISR) et/ou au refus par Immigration, Réfugiés et Citoyenneté Canada (IRCC) d'une demande de résidence temporaire ou permanente à outre-mer ou au Canada.

L'Unité des dispenses ministérielles (UDM) de l'Agence des services frontaliers du Canada (ASFC) reçoit et traite les demandes de dispense ministérielle, et recommande au ministre de la Sécurité publique et de la Protection civile (« le ministre »), par écrit, d'accorder ou de refuser la dispense. Les décisions relatives à la dispense ministérielle relèvent exclusivement du ministre et ne peuvent être déléguées à des fonctionnaires. La dispense ministérielle ne se veut pas un contrôle ni un nouvel examen d'une conclusion d'interdiction de territoire, et elle résulte de l'exercice d'un pouvoir discrétionnaire qui doit être exceptionnel.

L'évaluation des facteurs relatifs à la vie privée (ÉFVP) examine les risques d'atteinte à la vie privée associés au programme de dispense ministérielle de l'ASFC à la lumière des modifications apportées au *Règlement sur l'immigration et la protection des réfugiés* (RIPR) au chapitre de la dispense ministérielle, lesquelles sont entrées en vigueur le 10 mars 2017 et ont été publiées dans la *Gazette du Canada* le 22 mars 2017. L'ÉFVP évalue la gestion des renseignements personnels recueillis, utilisés, divulgués et conservés par l'ASFC durant le processus de demande de dispense ministérielle seulement.

Avant l'entrée en vigueur des modifications réglementaires, il n'y avait aucun cadre d'application officialisé en ce qui concerne la dispense ministérielle. Les étrangers demandaient habituellement une dispense en fournissant des preuves documentaires présentant divers degrés de pertinence pour une décision quant à savoir si la dispense doit être accordée. De plus, il n'y avait aucun critère officiel établissant le moment où une personne pouvait présenter une demande de dispense. Jusqu'à récemment, les agents d'IRCC devaient renvoyer une personne en vue d'un examen pour une dispense ministérielle et attendre le résultat de ce processus avant de rejeter la demande d'immigration (par exemple une demande de résidence temporaire ou permanente) ou avant de déférer les allégations d'interdiction de territoire à la Commission de l'immigration et du statut de réfugié du Canada (CISR) en vue d'une décision. L'inventaire des cas de dispense ministérielle en attente d'une décision comporte donc des demandes présentées par des personnes qui n'ont pas reçu de décision définitive quant à leur

admissibilité. Il en résulte que des ressources ont été utilisées pour évaluer des demandes de personnes qui ne sont peut-être pas interdites de territoire et, par conséquent, n'ont pas besoin de dispense.

Les modifications du RIPR mentionnées plus haut ont fourni davantage de précision, de cohérence et de contrôle aux processus de demande de dispense ministérielle, de gestion des demandes et de gestion de l'inventaire. Ces modifications :

- établissent le moment où un étranger peut présenter une demande (c.-à-d. une fois qu'une décision finale d'interdiction de territoire a été prise). Cela permettra à l'ASFC de concentrer les ressources sur le traitement des cas de dispense ministérielle pour lesquels l'interdiction de territoire a déjà été établie et maintenue par la CISR ou les tribunaux et réduira efficacement dans l'avenir le nombre de cas reçus où une dispense ministérielle n'est pas requise;
- prévoient l'utilisation d'un formulaire précis de demande de dispense ministérielle (BSF766 – Demande de déclaration de dispense visée au paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (LIPR), accessible sur le site Web externe de l'ASFC à l'adresse suivante : <http://www.cbsa-asfc.gc.ca/publications/forms-formulaires/bsf766-fra.html>);
- permettent à l'ASFC de retourner une demande de dispense ministérielle non traitée lorsque certaines exigences ne sont pas respectées;
- prévoient la fermeture du dossier lorsqu'un demandeur ne répond pas à un avis exigeant qu'il confirme son intention de poursuivre sa demande dans les délais prévus ou lorsque d'autres recours ont été obtenus;
- exigent du demandeur qu'il fournisse au ministre ses coordonnées à jour pendant le traitement de sa demande de dispense ministérielle;
- abordent les cas visés par les mesures transitoires relatives au nouveau règlement en précisant les aspects des modifications réglementaires qui s'appliqueraient aux demandes de dispense ministérielle reçues avant l'entrée en vigueur du règlement portant sur les dispenses ministérielles.

Protection des renseignements personnels

Les renseignements personnels recueillis, utilisés, divulgués et conservés dans le cadre de ce processus sont nécessaires à l'Agence pour appuyer ses recherches et ses recommandations au ministre concernant le bien-fondé d'une demande de dispense ministérielle. Les mesures réglementaires augmentent l'efficacité du processus de demande de dispense ministérielle en exigeant que les renseignements pertinents au processus d'évaluation soient fournis en temps opportun. On a réduit au minimum la collecte et la communication afin de sauvegarder les droits des demandeurs et de réduire le risque d'atteinte à la sécurité de leurs renseignements personnels. On utilise les renseignements recueillis en vue de fournir au ministre des conseils et des recommandations éclairés. **Les renseignements personnels recueillis sont conservés pendant 80 ans ou jusqu'à ce que la personne atteigne l'âge de 100 ans, et ce, seulement après que le dossier ait été fermé.**

Les renseignements personnels suivants, entre autres, seront recueillis auprès des demandeurs de dispense ministérielle et administrés par l'UDM de l'ASFC :

- le lieu de naissance, le sexe, l'état matrimonial du demandeur ainsi que le nom de tous ses anciens époux ou conjoints de fait;

- le numéro de téléphone et l'adresse courriel du demandeur, le cas échéant;
- les pays où le demandeur a déjà eu la citoyenneté ou la nationalité;
- la scolarité du demandeur, y compris le nom et le lieu de toutes les écoles primaires et secondaires et les établissements d'enseignement postsecondaire, technique et professionnel qu'il a fréquentés, ainsi que la date de début et de fin des périodes pendant lesquelles il a fréquenté chaque école ou établissement;
- les antécédents criminels du demandeur, dans tous les pays, y compris au Canada;
- les antécédents professionnels du demandeur, y compris le bénévolat, depuis l'âge de 16 ans, ainsi que la date de début et de fin pour chaque période de travail, le titre et la description du poste et le nom et l'adresse de l'employeur;
- l'historique des déplacements internationaux du demandeur depuis l'âge de 16 ans, y compris une liste des pays visités, le but des visites, les dates et la durée des visites et tout statut d'immigrant demandé ou obtenu dans un pays visité;
- si le demandeur a été jugé interdit de territoire en vertu de l'article 34, des alinéas 35(1)b) ou c) ou du paragraphe 37(1) de la LIPR; la date à laquelle la décision a été prise ainsi que la ville et le pays où elle a été prise; et si ce constat a mené à une décision ou à une mesure de renvoi visées au paragraphe 24.1(1) de la LIPR;
- si le demandeur a déjà été arrêté ou détenu ou incarcéré.

Les renseignements énumérés ci-dessus sont recueillis à l'aide du formulaire normalisé de demande de dispense ministérielle (BSF766), lequel doit être rempli par le demandeur et transmis à l'UDM accompagné de tout renseignement supplémentaire que le demandeur estime pertinent pour l'évaluation de l'intérêt national. On doit évaluer ces renseignements dans le contexte des autres renseignements relatifs à l'immigration dont disposent l'IRCC et l'ASFC afin de rédiger une recommandation au ministre.

Droit d'accès

Les individus sont informés des pouvoirs de collecte, d'application, d'utilisation et de communication des renseignements personnels dans un énoncé de confidentialité qui figure sur le formulaire de demande.

Lorsque l'UDM de l'ASFC prépare une recommandation au ministre, une copie de celle-ci et de tous les renseignements sur lesquels elle se fonde (sauf les renseignements liés aux tiers qui ont été caviardés) est fournie au demandeur. L'individu est invité à présenter tout document supplémentaire avant que la recommandation et les documents connexes soient renvoyés au ministre en vue d'une décision.

Les individus peuvent demander officiellement d'avoir accès à leurs renseignements personnels ou aux dossiers organisationnels relatifs à l'UDM de l'ASFC ou créés par cette dernière en remplissant une demande auprès de la Division de l'accès à l'information et de la protection des renseignements personnels. On peut trouver davantage de renseignements concernant l'accès à l'information et la protection des renseignements personnels, à l'adresse suivante : <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-airprp/menu-fra.html>.

Reddition des comptes

Les individus ayant des préoccupations concernant la collecte, l'utilisation, la communication ou la conservation de leurs renseignements personnels peuvent déposer une plainte auprès de la Division de l'accès à l'information et de la protection des renseignements personnels de l'ASFC. Les plaintes doivent être faites par écrit et comprendre le nom de la personne, ses coordonnées et une brève description de ses préoccupations. On peut trouver les coordonnées de la Division de l'accès à l'information et de la protection des renseignements personnels de l'ASFC à l'adresse suivante : <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/atip-aiprp/contact-fra.html>.



Operational Bulletin: PRG-2017-11

Title: Amendments to the *Immigration and Refugee Protection Regulations*: Ministerial Relief Applications

| | | | |
|-------------------------------------|------------------------|--------------------------------------|---|
| Date of Issue: 2017-03-22 | Mode(s): All | Target Audience: All Staff | Area of Interest: National and Overseas |
|-------------------------------------|------------------------|--------------------------------------|---|

Purpose:

This Operational Bulletin (OB) describes amendments to the *Immigration and Refugee Protection Regulations* (IRPR) that are intended to bring greater clarity and consistency to the Ministerial Relief (MR) application process.

Key changes include the introduction of a mandatory application form ([BSF766](#)) and specific parameters regarding when an application for a declaration of relief may be submitted and when it may be closed.

Background:

- Under subsection 42.1(1) of the *Immigration and Refugee Protection Act* (IRPA), foreign nationals may make an application for a declaration from the Minister of Public Safety and Emergency Preparedness (the Minister) that the matters referred to in section 34, paragraphs 35(1)(b) or (c), or subsection 37(1) of the IRPA do not constitute inadmissibility in their case¹.
- The granting of an exception from inadmissibility related to these grounds (security, human or international rights violations, and organized criminality, respectively) cannot be delegated, and is commonly known as Ministerial relief.
- The Canada Border Services Agency (CBSA) conducts an assessment of MR applications and develops a recommendation for the Minister. In the past, no formal MR application process existed: foreign nationals could submit a

¹ With the June 19, 2013 coming-into-force of Bill C-43, the *Faster Removal of Foreign Criminals Act* (FRFCA), the separate MR provisions under subsections 34(2), 35(2), and 37(2) of IRPA were repealed and replaced by section 42.1. Please refer to OB [533](#) – *Coming into Force of Bill C-43 – Ministerial Relief Provisions*.

request at any time, in any format, and there were no regulatory requirements governing the MR application process.

Regulatory Amendments:

Amendments to the IRPR came into force on **March 10, 2017**. The new regulatory framework institutes the following:

| Provision | Subject | Impact |
|---------------------|--|---|
| R24.1 | Application | Establishes parameters regarding when an application for a declaration of relief may be submitted. |
| R10(1)(a) and R24.2 | Form and content of application and required Information | Requires the use of a specific application form and sets out the information that must be included in the application. |
| R24.3 | Return of application | Allows an application to be returned, unprocessed, if it does not meet the prescribed requirements. |
| R24.4 | Closing of file | Allows the closure of an application in specific circumstances (i.e., the applicant obtains PR status; the application is withdrawn; the applicant seeks judicial review (JR) of their inadmissibility determination or removal order; or, the applicant fails to respond within 60 days to a CBSA notice requiring that they confirm their intent to proceed with their MR application). |
| R24.5 | Change in contact information | Requires applicants to provide updated contact information while MR applications are in process. |

- An MR application may only be submitted when inadmissibility has been determined and all rights of judicial review of that decision have been exhausted or expired. Inadmissibility is considered to be established when an immigration application (for temporary or permanent resident status) has been refused or when a removal order has been issued.
- For MR applications received prior to the coming-into-force of these regulations, transitional provisions limit the applicability of these amendments to the requirement to provide up-to-date contact information and the closure of files under the above-specified circumstances (except seeking JR of their inadmissibility determination or removal order).

- An additional transitional provision stipulates that an MR application received prior to the coming-into-force of these regulations will be closed following a final decision – including that all rights of judicial review have been exhausted or expired – that the applicant is not inadmissible on the grounds for which the applicant sought relief.

Actions required by IRCC and CBSA officers:

A request for Ministerial relief must be initiated by the applicant and is a separate process from an immigration application. Where inadmissible foreign nationals enquire about MR, they should be directed to the online application form (BSF766 Application for a Declaration of Relief under Subsection 42.1(1) of the *Immigration and Refugee Protection Act*), which contains information regarding the MR process.

Note that a pending MR application does not stay a removal order.

- All MR applications are received and processed by the Ministerial Relief Unit (MRU) at the CBSA. In order to ensure a streamlined approach when responding to process and/or case enquiries, it is requested that all correspondence and submissions regarding MR be forwarded to the MRU at:

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario K1A 0L8

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

- For foreign nationals who are outside of Canada, and who do not have a representative acting on their behalf in Canada, visa offices will in most cases continue to act as liaison between the applicant and the CBSA MRU. While these individuals may submit applications and submissions to the responsible visa office or to the CBSA directly, visa offices will retain primary responsibility for disclosing draft recommendations to applicants and communicating the decisions made by the Minister.
- For more information, consult the *Guide to Applying for a Declaration of Relief under Subsection 42.1(1) of the Immigration and Refugee Protection Act*.

Contact Information:

Ministerial Relief Unit, Policy Division, Enforcement and Intelligence Programs
Directorate, Programs Branch

Any questions regarding this bulletin should be directed to the generic inbox of the CBSA Ministerial Relief Unit via email at:

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca.

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| | |
|---------------------|--|
| Approved by: | Richard St. Marseille, A/Director Policy Division Enforcement and Intelligence Programs Directorate Programs Branch |
|---------------------|--|

| | |
|------------------------------------|----------------------------|
| Effective Date: Immediately | Updated: 2017-05-26 |
|------------------------------------|----------------------------|

Additional bulletins:



BULLETIN OPÉRATIONNEL : PRG-2017-

TITRE : Modifications apportées au *Règlement sur l'immigration et la protection des réfugiés* : Demandes de dispense ministérielle

| | | | |
|--|-------------------------|--|--|
| Date d'émission : 2017-03-22 | Mode(s): Tous | Public cible : Tout le personnel | Zone d'intérêt : Au pays et à l'étranger |
|--|-------------------------|--|--|

Objectif :

Le présent bulletin opérationnel (le BO) décrit les modifications apportées au *Règlement sur l'immigration et la protection des réfugiés* (le RIPR), qui visent à rendre le processus de demande de dispense ministérielle (la DM) plus clair et plus uniforme.

Les modifications clés comprennent l'introduction d'un formulaire de demande obligatoire (le BSF766) et des paramètres précis concernant le moment où une demande pour obtenir une déclaration de dispense peut être présentée et fermée.

Contexte :

- Au titre du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* (la LIPR), les étrangers peuvent présenter une demande pour obtenir une déclaration du ministre de la Sécurité publique et de la Protection civile (le ministre) selon laquelle les éléments mentionnés à l'article 34, aux alinéas 35(1)b) ou c), ou au paragraphe 37(1) de la LIPR ne constituent pas une interdiction de territoire dans leur cas¹.
- L'octroi d'une exception à l'interdiction de territoire liée à ces motifs (sécurité, atteinte aux droits humains ou internationaux et activités de criminalité organisée, respectivement) ne peut pas être délégué et est communément appelé une dispense ministérielle.

¹ Avec l'entrée en vigueur du projet de loi C-43 le 19 juin 2013, la *Loi sur le renvoi accéléré des criminels étrangers* (la LRACE), les dispositions distinctes relatives à la DM prévues aux paragraphes 34(2), 35(2) et 37(2) de la LIPR ont été abrogées et remplacées par l'article 42.1. Veuillez référer à BO 533 – *Entrée en vigueur du projet de loi C-43 – Dispositions relatives aux dispenses ministérielles*.

- L'Agence des services frontaliers du Canada (l'ASFC) effectue une évaluation des demandes de DM et élabore une recommandation à l'intention du ministre. Par le passé, il n'existait aucun processus officiel de demande de DM : les étrangers pouvaient présenter une demande en tout temps et sous n'importe quelle forme, et aucune exigence réglementaire ne régissait le processus de demande de DM.

Modifications réglementaires :

Les modifications apportées au RIPR sont entrées en vigueur le 10 mars 2017. Le nouveau cadre réglementaire prévoit ce qui suit :

| Disposition | Objet | Incidence |
|-------------------|---|--|
| R24.1 | Demande | Établit les paramètres concernant le moment où une demande pour obtenir une déclaration de dispense peut être présentée. |
| R10(1)a) et R24.2 | Forme et contenu de la demande et information requise | Requiert l'utilisation d'un formulaire de demande précis et établit l'information qui doit être comprise dans la demande. |
| R24.3 | Retour de la demande | Permet à une demande d'être retournée sans avoir été traitée si elle ne répond pas aux exigences prescrites. |
| R24.4 | Fermeture du dossier | Permet la fermeture d'une demande dans des circonstances particulières (p. ex. le demandeur obtient un statut de résident permanent; la demande est retirée; le demandeur souhaite un contrôle judiciaire (le CJ) de la décision d'interdiction de territoire ou de la mesure de renvoi; ou le demandeur ne répond pas dans les soixante jours à l'avis de l'ASFC qui exige que celui-ci confirme son intention de présenter une demande de DM). |
| R24.5 | Changements relatifs aux coordonnées | Exige des demandeurs qu'ils fournissent des coordonnées à jour au cours du processus de demande de DM. |

- Une demande de DM ne peut être présentée que lorsqu'une interdiction de territoire a été déterminée et que tous les droits de contrôle judiciaire de cette décision ont été épuisés ou ont expirés. L'interdiction de territoire est établie lorsqu'une demande d'immigration (p. ex. demande de résidence temporaire ou permanente) a été refusée ou si une mesure de renvoi a été émise.
- Pour les demandes de DM reçues avant l'entrée en vigueur du règlement, des dispositions transitoires limitent l'applicabilité de ces modifications à l'exigence de fournir des coordonnées à jour et à la fermeture de dossiers dans le cas des circonstances particulières mentionnées plus haut (à l'exception du fait de vouloir obtenir un CJ de la décision d'interdiction de territoire ou de la mesure de renvoi).

- Une disposition transitoire supplémentaire précise qu'une demande de DM reçue avant l'entrée en vigueur de ce règlement sera fermée à la suite d'une décision finale selon laquelle le demandeur n'est pas interdit de territoire aux motifs pour lesquels le demandeur veut obtenir une dispense – y compris après que tous les droits de contrôle judiciaire ont été épuisés ou ont échoué.

Actions requises des agents (IRCC et ASFC):

- Une demande de dispense ministérielle doit être présentée par le demandeur et est un processus distinct d'une demande d'immigration. Lorsque des étrangers interdits de territoire veulent en savoir davantage à propos de la DM, on devrait les diriger vers le formulaire de demande (BSF766 « Demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi sur l'immigration et la protection des réfugiés »), qui contient de l'information sur le processus de DM. **Veuillez noter qu'une demande de DM en suspens ne sursoit pas à une mesure de renvoi.**
- Toutes les demandes de DM sont reçues et traitées par l'Unité des dispenses ministérielles (l'UDM) à l'ASFC. Afin que l'on puisse assurer une approche simplifiée au moment de répondre aux demandes de renseignements concernant un cas ou le processus, la correspondance et les observations concernant les demandes de DM doivent être transmises à l'UDM à l'adresse suivante :

Unité des dispenses ministérielles
Agence des services frontaliers du Canada
100, rue Metcalfe, 10^e étage
Ottawa (Ontario) Canada K1A 0L8

Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca

- Pour les étrangers qui se trouvent à l'extérieur du Canada et qui n'ont pas de représentant agissant en leur nom au Canada, les bureaux des visas continueront d'agir, dans la plupart des cas, comme un agent de liaison entre le demandeur et l'UDM de l'ASFC. Bien que ces personnes puissent présenter des demandes et des observations au bureau des visas responsable ou directement à l'ASFC, les bureaux des visas auront la responsabilité principale de divulguer l'ébauche des recommandations aux demandeurs et de communiquer les décisions prises par le ministre.
- Pour en savoir davantage, veuillez consulter le Guide de demande de déclaration de dispense visée au paragraphe 42.1(1) de la Loi sur l'immigration et la protection des réfugiés.

Coordonnées :

Unité des dispenses ministérielles, Division des politiques, Direction des programmes d'exécution de la loi et du renseignement, Direction générale des programmes

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Pour obtenir de plus amples renseignements sur ce bulletin, veuillez communiquer avec l'Unité des dispenses ministérielles de l'ASFC par courriel à :

Ministerial Relief.Exemptions Ministerielles@cbsa-asfc.gc.ca.

Approuvé Richard St. Marseille, Directeur p.i.
par : Division des politiques
Direction des programmes d'exécution de la loi et du renseignement
Direction générale des programmes

Date d'entrée en vigueur : Immédiatement

Mis à jour le : 2017-05-26

Bulletins supplémentaires



COMPREHENSIVE PROGRAM ASSESSMENT: IMMIGRATION INVESTIGATIONS

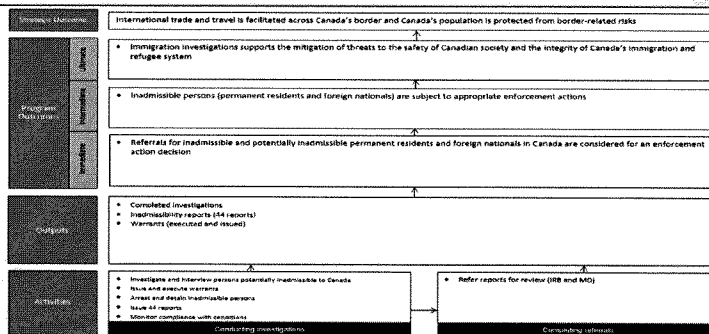
NOTE: To the extent possible, answers should be in bullet form and be void of subjective influencers (adverbs and adjectives).

Program Assessment

1.1 PROGRAM INFORMATION

| Name | | Immigration Investigations | |
|---|------------------------|--|---|
| Expected Results and Performance Indicators | Results structure | Results | Performance Indicator |
| | Current PAA | Immigration investigations are conducted against foreign nationals and permanent residents who are or may be inadmissible to Canada. | <ul style="list-style-type: none"> • Percentage of immigration investigations initiated that result in a person being identified as inadmissible to Canada • Percentage of immigration warrants executed/cancelled as a result of active investigation activities conducted by the CBSA |
| | | Timely investigation of foreign nationals and permanent residents who are or may be inadmissible to Canada. | <ul style="list-style-type: none"> • Percentage of immigration investigations finalized within one year of being initiated |
| | DRF* (as of 2018-2019) | Immigration investigations identify persons inadmissible to Canada | <ul style="list-style-type: none"> • Percentage of immigration investigations concluded that result in a person being identified as inadmissible to Canada |
| * The expected result statement and indicators in the new DRF provides language that is clearer, more specific and reader-friendly which are more outcomes-based. | | | |

Brief Description



DG Programs Role

The Inland Enforcement Program Management Division provides leadership, strategic direction and program management, including program policy support and functional guidance to the Operations Branch for the delivery of four key CBSA inland enforcement functions: Hearings, Immigration Investigations, Detentions, and Removals. The division is also responsible for leadership in the development and maintenance of related inland enforcement manuals.

Hearings and Investigations Unit: Responsible for the development, implementation, and management of national strategies, program policies and processes related to CBSA in-country administrative immigration investigation activities and the hearings functions of the Inland Enforcement program.

Key responsibilities include:

- Providing functional direction for Operations Branch, and program policy development related to the Hearings and Investigations Programs
- Developing training materials, information sharing agreements and MOUs, as required, to strengthen Hearings and Investigations
- Supporting broader policy development, performance measures and governance efforts to address merging program related issues and trends
- Responding to Hearings and Investigations related audits and evaluations

(Source Atlas <http://>)

DG Operations HQ Role

The Inland Enforcement Operations unit supports the regions on operational issues for hearings, investigations and detentions. It is also responsible for national operational planning for mass marine migrant arrivals. (Source Atlas)

Regional Role

The Inland Enforcement Division (IED) of the Canada Border Services Agency (CBSA) investigates foreign nationals and permanent residents in Canada who are or may be inadmissible to Canada, which may result in the removal of the person from Canada. IED includes four sub-programs: Immigration Investigations, Immigration Hearings, Detentions

| | | |
|------------------|--|-------------------------------------|
| | <p>and Removals. [Source: http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2015/imm-eng.html# 3]</p> <p>The Immigration Investigations Program investigates, reports and arrests foreign nationals and permanent residents in Canada who are or may be inadmissible to Canada as defined in the <i>Immigration and Refugee Protection Act</i> (IRPA). Immigration Investigations are initiated on the basis of information and circumstances that would lead an officer to believe that there has been a violation of the IRPA and Regulations. Investigations are conducted based on the prioritization framework to ensure that cases involving the highest degree of risk and persons whose removal may be imminent are not delayed.</p> <p>Immigration Investigations includes the following activities: conducting desk and road investigations; writing inadmissibility reports; conducting Minister's Delegate reviews of the inadmissibility reports and issuing removal orders where the inadmissibility falls within the Minister's Delegate function or referring reports to the Immigration Division of the Immigration Refugee Board for a decision; issuing and managing immigration warrants, as well as arresting and detaining inadmissible individuals. Cases are prioritized to focus on the highest degree of risk (e.g. security, war crimes, organized crime, criminality, etc.) and persons whose removal may be imminent are not delayed. Immigration Investigations is interdependent with the following areas on Inland Enforcement: Detentions, Hearings, Removals, Litigation, Danger Assessment, Ministerial Relief and the Warrant Response Centre.</p> <p>[Sources: Report on Plans and Priorities: http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/rpp/2016-2017/report-rapport-eng.html; ENF7; OB-PRG-2014-04 : http://atlas/pb-dgp/res/bulletins/bsa-asf/2014/prg_2014_04_eng.asp]</p> | Field Code Changed |
| Related Programs | <p>The Inland Enforcement continuum involves four programs: Immigration Investigations, Detentions, Hearings and Removals.</p> <p>In prescribed circumstances, persons investigated for an IRPA violation may be arrested and detained.</p> <p>Persons detained must have their detention reviewed by the Immigration Refugee Board (IRB) after 48 hours of initial detention. In addition, the IRB is responsible for Admissibility Hearings, Appeals and Refugee hearings. CBSA Hearings Program represents the Minister during all IRB hearings.</p> <p>Litigation management provides advice and instructions to the Department of Justice on all litigation related to immigration decisions made by CBSA officers.</p> <p>The Danger Assessments unit works on cases of individuals who are inadmissible on grounds of national security, war crimes, organized crime and prepares assessments which are required to remove persons from Canada.</p> <p>The Warrant Response Centre is a 24/7 operation that supports CBSA and other law enforcement officers in validating immigration warrants and previously deported persons inventory and manages a public tip line (Border Watch Line).</p> <p>The Ministerial Relief unit is responsible for reviewing applications made by persons found inadmissible to Canada on the grounds of security, organized crime and war crimes who are seeking relief from the inadmissibility and providing recommendations to the Minister of Public Safety whether relief should be granted.</p> | Formatted: Tab stops: 5.16 cm, Left |

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|-----------------------------------|--|--|-------------------------------|--|
| | Removing individuals who do not have the right to enter or stay in Canada is essential to maintaining the integrity of our immigration program and to ensuring fairness for those who come to this country lawfully. The Removals program is the last step in the immigration enforcement continuum. | | | |
| Program OPI | <i>Director General, Enforcement and Intelligence Programs</i> | | | |
| Cabinet Authorities | Canada Border Services Agency Act Immigration and Refugee Protection Act Immigration and Refugee Protection Regulations Immigration and Refugee Protection Act – Delegation and Designation Instruments | | | |
| Key Delivery Instrument(s) | Direct Operations | | Legislative/Regulatory | |
| | Operating Support | | Other (specify) | |

1.1.1 SUMMARY FUNDING INFORMATION

| Funding Levels | X | A-Base | | B-Base |
|---|---|------------------|------------------|------------------|
| Full-Time Equivalents (FTEs) | | 2014-15 | 2015-16 | 2016-17 |
| | | 456 | 448 | 427 |
| Spending Profile (actuals in \$000s) | | 2014-15 | 2015-16 | 2016-17 |
| Salary (Vote 1) | | 35,526.84 | 28,614.09 | 32,499.25 |
| Non-Salary (Vote 1) | | 3,082.28 | 2,131.27 | 3,484.00 |
| subtotal | | 38,609.12 | 30,745.35 | 35,983.25 |
| Capital Salary (Vote 5) | | 117.82 | 0.40 | 0.06 |
| Capital Non-Salary (Vote 5) | | 49.34 | 0.00 | -0.20 |
| subtotal | | 167.16 | 0.00 | 0.06 |
| Other (specify) | | | | |
| TOTAL | | 38,776.28 | 30,745.76 | 35,983.11 |

*Variances due to rounding

1.1.2 OPS – HQ FUNDING INFORMATION

| Funding Levels | X | A-Base | | B-Base |
|----------------|---|--------|--|--------|
|----------------|---|--------|--|--------|

| Full-Time Equivalents (FTEs) | 2014-15 | 2015-16 | 2016-17 |
|--------------------------------------|-----------------|-----------------|-----------------|
| | 71 | 75 | 77 |
| Spending Profile (actuals in \$000s) | 2014-15 | 2015-16 | 2016-17 |
| Salary (Vote 1) | 5,408.32 | 4,162.42 | 6,041.80 |
| Non-Salary (Vote 1) | 318.89 | 219.30 | 260.11 |
| subtotal | 5,727.22 | 4,620.13 | 6,301.91 |
| Capital Salary (Vote 5) | 0.00 | 0.00 | 0.00 |
| Capital Non-Salary (Vote 5) | 0.00 | 0.00 | 0.00 |
| subtotal | 0.00 | 0.00 | 0.00 |
| Other (specify) | | | |
| TOTAL | 5,727.22 | 4,381.72 | 6,301.91 |

*Variances due to rounding

1.1.3 OPS – REGIONAL FUNDING INFORMATION

| Funding Levels | X | A-Base | B-Base |
|--------------------------------------|------------------|------------------|------------------|
| Full-Time Equivalents (FTEs) | 2014-15 | 2015-16 | 2016-17 |
| | 317 | 322 | 322 |
| Spending Profile (actuals in \$000s) | 2014-15 | 2015-16 | 2016-17 |
| Salary (Vote 1) | 23,994.82 | 22,315.50 | 24,095.88 |
| Non-Salary (Vote 1) | 2,078.90 | 1,895.76 | 1,870.45 |
| subtotal | 26,073.72 | 24,211.26 | 25,966.33 |
| Capital Salary (Vote 5) | 116.21 | 0.40 | 0.06 |
| Capital Non-Salary (Vote 5) | 22.18 | 0.00 | 0.00 |
| subtotal | 138.39 | 0.40 | 0.06 |
| Other (specify) | | | |
| TOTAL | 26,212.11 | 24,211.66 | 25,966.38 |

*Variances due to rounding

1.1.4 OTHER* FUNDING INFORMATION

| Funding Levels | X | A-Base | B-Base |
|----------------|---------|---------|---------|
| | 2014-15 | 2015-16 | 2016-17 |

| | | | |
|---|-----------------|-----------------|-----------------|
| Full-Time Equivalents (FTEs) | 68 | 51 | 27 |
| Spending Profile (actuals in \$000s) | 2014-15 | 2015-16 | 2016-17 |
| Salary (Vote 1) | 6,123.70 | 1,913.96 | 2,361.56 |
| Non-Salary (Vote 1) | 684.49 | 0.00 | 1,353.45 |
| subtotal | 6,808.19 | 1,913.96 | 3,715.01 |
| Capital Salary (Vote 5) | 1.61 | 0.00 | 0.00 |
| Capital Non-Salary (Vote 5) | 27.16 | 0.00 | -0.19 |
| subtotal | 28.77 | 0.00 | 3,715.01 |
| Other (specify) | | | |
| TOTAL | 6,836.96 | 1,913.96 | 3,715.01 |

*Variances due to rounding

*Other includes: Information, Science and Technology, Project Systems and Programs Branches

1.2 EXPLANATION OF YEAR-OVER-YEAR VARIANCE

Provide an explanation for recent year-over-year variances in spending, including the impact of new policy approvals, provision of short-term B-base funding, unforeseen events, etc.

| | |
|----------------|---|
| Overall | <p>The Immigration Investigations Sub-Program Evaluation (2015) identified that budgets for the Inland Enforcement Program are historically-based, and do not use a resource allocation model or other cost-allocation model. Management in some regions expressed frustration that budgets could not be readily adjusted to reflect changing workloads (e.g. increase in investigations of temporary foreign workers in Edmonton and Calgary during oil boom) and diversion of IEO resources dedicated to investigations to deal with emerging trends and issues (e.g. Syrian movement, 'border jumpers', assisting with removal efforts, etc.). In addition, "activity types" used by the Agency to track certain types of activities were not consistently employed across the county. <u>The salary variance for the MR can be attributed to budget reductions over the past two fiscal years which have resulted in a decrease of FTEs. The significant increase in O&M in 206-2017 is attributed to relocation expenditures of two employees.</u></p> |
|----------------|---|

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1.3 GOVERNMENT PRIORITY

| | | |
|--|--------|--|
| Is this program a Government priority? | High | |
| | Medium | |
| | Low | |

Rationale:

Explain answer and provide evidence. Questions to consider:

- What mandate, Budget or other priority created this program? Quote reference document(s).
 - Relation to current Government priorities and how its expected results align to current Government priorities (sources: mandate letter, SFT, Budget priorities, etc.).
 - Does this program deliver a core government service? Explain.
- The immigration investigations program is linked to the Public Safety Charter and is part of the continuum of activities the Agency pursues in support of Canada's immigration enforcement activities, which includes investigations, detentions, hearings and removals.
 - The Immigration Investigations Program of the CBSA contributes to the Whole of Government Framework Outcome Area: A safe and secure Canada, and to the CBSA Organizational Priority: Secure the Border Strategically by performing "activities relating to...immigration enforcement...including continuing to support the reform of the refugee determination system, enhancing the Agency's capacity to investigate and locate foreign nationals and permanent resident in contravention of IRPA." [Source: Canada Border Services Agency, 2015-16 Report on Plans and Priorities]

1.4 FEDERAL ROLE

| | | |
|--|--------|--|
| To what extent is this program consistent with the federal government's core role? | High | |
| | Medium | |
| | Low | |

Rationale:

Explain the nature of the federal government's role to deliver this program. Is the Government of Canada best placed to deliver this program or activity? Questions to consider:

- Are other orders of government, the private sector, or the not-for-profit sector are better positioned to deliver the programming and results?
 - Does this program deliver a private benefit to stakeholders, is this program or service something for which the department could potentially charge fees?
 - Should this program (or elements thereof) be delivered by other OGDs?
- Under the Constitution Act (1867/1982), the Government of Canada is responsible for the administration of the federal immigration system, including determining the admissibility of foreign nationals and the issuance of document and enforcement activities. As part of the immigration enforcement area, the Immigration Investigations program is aligned with the federal roles and responsibilities. [Source: 2015 Evaluation of Immigration Investigations]
 - A primary role of the Government of Canada is to maintain the safety and security of Canada and its citizens, which includes the securing of Canadian borders. The CBSA, within the portfolio of the Minister of Public Safety and Emergency preparedness (Public Safety Canada), provides integrated border services that support national security priorities, while facilitating the flow of people and goods across its borders. (Source: 2015 Evaluation of Immigration Investigations).

- The CBSA, along with the RCMP and CSIS, support Immigration, Refugees and Citizenship Canada to protect Canadians by conducting appropriate background screening of both immigrants and temporary residents and to identify applicants who could pose a security risk to the country.
- The Immigrations Investigations Program contributes to the Government of Canada priorities to secure the border strategically by providing enforcement actions, as needed, to ensure the integrity of the immigration and refugee system. (Source: 2015 Evaluation of Immigration Investigations).

1.5 CBSA ROLE

| | | |
|--|--------|--|
| To what extent is this program consistent with the CBSA's core role? | High | |
| | Medium | |
| | Low | |

Rationale:

Explain the nature of the federal CBSA's role to deliver this program. Is CBSA most effective or efficient to deliver this program or activity? Questions to consider:

- Is this program already being delivered by OGDs (e.g., overlapping with other existing programs)?
- Should this program be delivered by OGDs?
- Do roles created through MoUs with OGDs continue to support CBSA's mandate?
- The CBSA was created in 2003 to integrate certain functions and responsibilities of the Canada Customs and Revenue Agency, Citizenship and Immigration Canada (CIC) and the Canadian Food Inspection Agency (CFIA). Today, the CBSA administers over 90 acts, including the Immigration and Refugee Protection Act (IRPA). Under IRPA, the CBSA and CIC - now Immigration, Refugees and Citizenship Canada (IRCC) - are jointly responsible for administering Canada's immigration and refugee program. IRCC develops Canada's admissibility policies, which sets the conditions for entering and remaining in Canada, while the Immigration Enforcement Program of the CBSA ensures compliance with IRPA. (Source: 2015 Evaluation of Immigration Investigations)
- The CBSA has the legal authority to arrest, detain and remove inadmissible foreign nationals and permanent residents through Immigration, Refugees & Protection Act (IRPA) where it states the following:
4(2) The Minister of Public Safety and Emergency Preparedness is responsible for the administration of this Act as it relates to:
(b) the enforcement of this Act, including arrest, detention and removal.
(c) establishment of policies related to enforcement and inadmissibility on grounds of security, organized criminality, or violating human or international rights;
(d) ministerial relief



Figure 1- (Source: 2016 Audit of Immigration Enforcement)

- Given the creation of the CBSA in 2003 and the transfer of certain IRCC functions to the Agency, the CBSA is best placed to deliver the Immigration Investigations Program. In addition, CBSA has obtained Investigative Body Status for Inland Enforcement Officers.
- Under the IRPA, the CBSA is responsible for managing the flow of travelers at Canadian ports of entry, intelligence and interdiction of irregular migration, immigration enforcement and criminal investigations of

IRPA offences. This includes responsibility for arrests, detentions, removals and representing Ministers at immigration proceedings. [Source: Memorandum of Understanding between the Department of Citizenship and Immigration, the Canada Border Services Agency and the Immigration and Refugee Board of Canada].

- The Act explicitly states that the Minister of Public Safety is responsible for policy related to enforcement of the IRPA, serious inadmissibility grounds, and Ministerial Relief. The Act also prohibits the Minister from delegating the Ministerial relief function. The CBSA is the only portfolio agency equipped to support the Minister in this statutory role.

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1.6 RELEVANCE – CONTINUED PROGRAM NEED

| | | |
|--|--------|--|
| To what extent does the societal need for which this program was designed still exist? | High | |
| | Medium | |
| | Low | |

Rationale

Explain answer and provide evidence. Questions to consider:

- What ongoing or emerging need does this program address?
 - Which segments of the population are targeted and impacted by this program? Where? How many?
 - What were the imperatives/needs at the time this program was created?
 - Are these needs still in existence today? Have they changed over time? If so, how?
 - To what extent is the program still relevant? Does it continue to address a demonstrable need and is it responsive to the needs of Canadians.
- Canada continues to be among the top countries in the world for travellers seeking to work, study and live. (Source: 2015 Evaluation of Immigration Investigations)
 - The 2015 Evaluation of the Immigration Investigations Program found that there is a continued need for the Immigration Investigations program, as it helps ensure foreign nationals who may pose a threat to Canada and Canadians and those who may become inadmissible under IRPA are detected, investigated, arrested or detained where necessary, monitored and/or removed.
 - The Immigration Investigations Program is also key in mitigating CBSA's security risk, which states that if Canada does not keep pace with cross-border criminal activity, national security threats (including terrorism and radicalization), changes to migration flows and public safety priorities, then public and frontline staff health, safety, security and Canada's economic prosperity may be compromised.
 - The 2013–2015 CBSA National Border Risk Assessment cited inadmissible foreign nationals as a top risk for Canada. To date, as a result of the "Wanted by the CBSA" program, 68 individuals subject to Canada-wide arrest warrants for removal have been located in Canada. The CBSA has removed 62 of these individuals from Canada. Additionally, 18 of the wanted individuals were located abroad. [Source: Wanted by the CBSA: <http://www.cbsa-asfc.gc.ca/wc-cg/menu-eng.html>]

1.7.1 PERFORMANCE – EFFECTIVENESS

| | | |
|--|--------|--|
| To what extent is this program achieving the expected results for which it was designed? | High | |
| | Medium | |
| | Low | |

| | | |
|--|--------------------------|--|
| | Results not demonstrated | |
|--|--------------------------|--|

Overall KPI Summary (4 paragraphs max):

Explain the effectiveness of the program by demonstrating the level of expected results achieved using established performance indicators as available. This should be based on the program's performance measurement framework data, and make specific reference to evaluations and other studies (please provide titles and dates). If there are other metrics available to the department that would help to demonstrate effectiveness, please also include these. Questions to consider:

- How are performance targets set? Have targets remained stable over time? If not, why not?
- Are there year-over-year variances in the results? Please explain.
- Has there been demonstrable progress made against expected results over the past three to five years? Use performance indicators and their values to demonstrate.
- To what extent can the results achieved be attributed to this program?
- Does CBSA have legislated service standards in place for this program? If not should service standards be developed?
 - Why were these service standards chosen? Are they the right ones? Are they set in regulations or legislation?
 - Are service standards being met?
 - Is the department over/under performing on its service standards?
 - Are service standards the same across all regions?
 - What impact would a change in service standards have?
- Are there comparable programs in other jurisdictions or OGDs that are judged to be good practices to gauge potential effectiveness?
- Are the regulations that underlie the program (if any) still effective, or do they need to be updated?
- Have other program design or delivery models been considered? If yes, what are they? If they were not adopted, why not?
- When was the program last evaluated?
- Are the stakeholders of this program actively and adequately engaged? Are they satisfied with the current programming?

If results cannot be demonstrated, please explain why.

Program effectiveness:

Program effectiveness is measured by the resultant rate and processing times for immigration investigations.

| Expected Results | Performance Indicators | Actual Results | | |
|---|--|----------------|---------|---------|
| | | 2015-16 | 2014-15 | 2013-14 |
| Immigration investigations are conducted against foreign nationals and permanent residents who are or may be inadmissible to Canada | Percentage of immigration investigations initiated that result in a person being identified as inadmissible to Canada Target: 55% | 60% | 58% | 52% |
| | Percentage of immigration warrants executed/cancelled as a result of active investigation | 95% | N/A | 94% |

| | activities conducted by the CBSA Target: 90% | | | |
|---|--|-----|-----|-----|
| Timely investigation of foreign nationals and permanent residents who are or may be inadmissible to Canada | Percentage of immigration investigations finalized within one year of being initiated Target: 80% | 88% | 90% | 87% |

Source: Previous Departmental Performance Reports

Previous evaluations and audits

- The most recent audit was conducted as part of a broader review of the Immigration Enforcement programs in 2016.
- The most recent evaluation was done in 2015 (Evaluation on Immigration Investigations)

Program Effectiveness:

- The Immigration Investigation program is measured by investigations conducted against foreign nationals and permanent residents who are or may be inadmissible to Canada. Cases are prioritized to ensure that cases involving the highest degree of risk and persons whose removal may be imminent are not delayed.
- The CBSA continued its on-going efforts to reduce its warrant inventory, focusing on the highest priority cases and failed refugee claimants, as well as developing new tools to locate individuals attempting to avoid immigration arrest. As an on-going function, the number of immigration warrants issued in 2015-16 decreased, while warrant executions and cancellations remained constant with previous years. [Source: 2015-2016 CBSA DPR: http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/dpr-rmr/2015-2016/report-rapport-eng.html#section3a_1.5]
- The CBSA is exploring a suite of legislative and regulatory amendments to the IRPA and IRPR that aim to improve the effectiveness of immigration enforcement broadly, as well as specific impacts on the investigations program. Specific proposals under consideration include:
 - Consequences of removal orders: under the current framework, temporary resident status including work and study permits are cancelled upon the issuance of a removal order. The same approach has not been applied to the temporary resident visa, temporary resident permit, or electronic travel authority. As a result, officers must undertake additional assessments to cancel these documents that can facilitate travel to Canada. By having these documents be cancelled by operation of law upon the coming into force of a removal order, the CBSA will be able to make more effective use of its investigation resources by avoiding the need to undertake the work associated with the exercise of discretion necessary to cancel these documents.
 - Transfer jurisdiction to issue removal orders where a permanent resident is inadmissible due to in-Canada criminality from the Immigration Division (ID) to the Minister's delegate (MD)
 - Review current framework of removal order jurisdiction to identify any other grounds of inadmissibility that could be transferred from the ID to the MD

Program effectiveness would be achieved by shifting the administrative burden on relatively straight-forward inadmissibility allegations from the ID to the MD. This will result in a more streamlined enforcement process. It should be noted, however, that the Agency's Abase review process and commensurate salary reductions in the Policy Division have identified a need to defer this proactive policy work to the extent necessary to operate within existing (and reduced) resources. Accordingly, timelines associated with this policy work are under review.

Field Code Changed

The aging inventory of Minister Relief applications poses a significant litigation risk and challenge for mandamus applications at the Federal Court, in a recent case (March 2017) the FC not only issued an order compelling the Minister to render a decision within a specific timeframe but awarded costs to the applicant. As of July 2017, there are currently 293 cases in the MR inventory. Recent gains have been made since the introduction of new regulations in March 2017: 32 applications have been closed to date, and several more are expected to be closed by the end of fiscal year 2017-2018. While between 2011 and 2016, an average of 17.5 applications were received per year, as of July, only six applications had been received for calendar year 2017. Reducing the aging inventory will necessitate additional resources, and in order to ensure future program sustainability, the MRU will need retain sufficient resources to effectively process case intake each year. Budget reductions over the past two fiscal years have resulted in a reduction of FTEs from 12 to 6 within the MR unit.

1.7.2 PERFORMANCE – EFFICIENCY

| | | |
|--|--------------------------|--|
| To what extent is this program achieving its expected results efficiently? | High | |
| | Medium | |
| | Low | |
| | Results not demonstrated | |

Overall KPI Summary:

Discuss the program's efficiency in producing its outputs and achieving its outcomes using established performance indicators as available. Use evidence from performance measurement framework data calculations, and make specific reference to evaluations, special studies, and comparisons to other jurisdictions (please provide titles and dates). Quantify as much as possible with year-to-year comparison. (Note: Efficiency is defined as the extent to which resources could be used such that a greater level of output is produced with the same level of input or, a lower level of input could be used to produce the same level of output.) Questions to consider:

- Have any increases or decreases to the program budget been recorded over the past four years? If yes, what impact have these had on CBSA's ability to achieve expected outputs and outcomes during this time period?
- Have outputs been produced as planned?
- What impacts have changes in program spending over the past ten years had on program efficiency? Please provide evidence as appropriate.
- How many full-time equivalents are currently supporting this program? How have FTE levels for this program changed over the past several years and what has been the impact on program outcomes?
- Explain variance in overtime as a % of salary dollars over the period.
- Has the efficiency of this program improved over time? Please provide evidence, as appropriate.
- Have any opportunities for improving the design and/or delivery of the program been identified during program delivery and/or from stakeholder feedback? (Link to Investment Proposals.)

If results cannot be demonstrated, explain why.

- Note that there are challenges with measuring overall program efficiency, given the lack of expenditures available at the lowest program level. [Source: [Immigration Enforcement Audit 2016](#)].

Program Efficiency:

[Source: Program Evaluation of the Immigration Investigations Sub-Program (December 2015)]:

- Immigration Investigations Program is required to prioritize and conduct investigations, and to detect inadmissible foreign nationals and permanent residents. Every CBSA region has staff assigned to the immigration investigations function, covering all provinces and territories. As of April 2017, a total of 217 IEOs were involved in the immigration investigations function in the regions, although it should be noted that in Atlantic, Quebec, Southern Ontario and Prairies Regions, IEOs are not solely allocated towards investigations, but conduct other inland enforcement officer duties such as removals and detentions transport.
- Inland Enforcement Officers dedicated to investigations are involved in "desk investigations" (e.g. conducting database searches, contacts with other law enforcement agencies and stake holders, in-office interviews, etc.) as well as "road investigations" such as surveillance, interviews and field visits (e.g. to a subject's home, work). Investigations vary greatly in degree of complexity, resource requirements, and time to complete: from overstays to war criminals, from marriages of convenience to long-term permanent residents who commit a serious crime in Canada.
- Of immigration investigations initiated between FY 2011–2012 and FY 2014–2015, between 52% and 58% resulted in an inadmissibility report (the CBSA target is 55%).
- In FY 2013–2014, the IRB held 1,900 admissibility hearings, 91% of which were finalized within six months, and 78% of them resulted in a removal order. The high concordance rate in front of the IRB in part demonstrates of the strength of the evidence of the investigation prepared by the officers.
- Similar to other law-enforcement agencies, the level of effort CBSA Inland Enforcement Officer puts into an immigration investigations does not necessarily correlate with the number of arrests and warrants executed. Some complex cases can take months or years to conclude while in some cases a person subject to IRPA enforcement may be removed without ever having been arrested or subject to an immigration warrant. By contrast, some minor immigration violations (e.g. visitor overstay, illegal employment) may require an arrest/detention to ensure that the individual will comply with removal, but might require fewer officer resources (e.g. work may be completed within days).
- Immigration Investigations Program is supported by the CBSA Warrant Response Centre (WRC) which is responsible for managing all immigration warrants and Previously Deported Persons (PDP) inventory in CPIC (Canadian Police Information Centre) and providing assistance to CBSA IEOs and law enforcement officers who encounter persons subject to an IRPA arrest during the course of an investigation. In addition, WRC also manages the Border Watch Line, a tip line available to the public to report suspected violations related to IRPA and other border legislation. Significant percentage of the calls received are for immigration violations related to the work done by the Immigration, Refugees and Citizenship Canada (IRCC), which impacts on the WRC resources and their ability to support the core CBSA mandate. In addition, staffing challenges have resulted in a high turn-over of WRC staff, which further impacts their efficiency to support the program.
- Immigration Investigations is also responsible for preparing Danger Opinion packages in cases involving protected persons in Canada who are convicted of serious criminality in order to facilitate their removal from Canada. Once completed, a recommendation is sent to IRCC for a decision by IRCC Minister. The average time to receive a decision from IRCC Minister is 508 days. Given that these are considered "high-risk" and "high-priority" cases for CBSA and the Government of Canada, a more efficient process is needed (e.g. negotiate service standards with IRCC or transfer of this function to the Minister of Public Safety).

- Nearly all new hires into Immigration Investigations are former Border Services Officers (BSOs) working at Ports of Entries. Current allocation for immigration-related training for BSOs accounts for only a small percentage of the overall training received and almost none focused on immigration investigations. Furthermore, it should be noted that IRPA authorities (e.g. to examine, arrest, detain, etc.) vary from POE to Inland Enforcement. Although National Training Standards for IEOs were recently updated, due to regional staffing and budget constraints, officers often don't complete all required training until they have been in the position for some time. A national training program for all new IEOs to be completed prior to IEOs assuming their new duties would further enhance program efficiencies and reduce instances of litigation.
Note: litigation related to immigration decisions accounts for the highest percentage of all litigation cases in Federal Court.

- Increased complexity of priority cases (e.g. security, war crimes, organized crime) and challenges in finding reliable information and required evidence to support the allegation poses a challenges for officers and a risk to the program. Having a national Centre of Expertise that includes resource information for all CBSA officers administering and enforcing the IRPA would improve program efficiency and minimize risk. This Centre of Expertise would include relevant and up to date information related to the interpretation of immigration inadmissibilities, program and policy guidelines, recent jurisprudence, information on organizations of interest (e.g. organized crime groups) and country conditions. This all would assist all officers along the immigration continuum to identify cases of interest, reduce time spent on each case and make better decisions thus reducing the likelihood of litigation.

- In the past few years, the Ministerial Relief Unit streamlined the approval process with respect to ministerial relief recommendations. This has resulted in shortening the processing time by 104 days. New regulations were created and implemented as of March 10, 2017 which have brought greater clarity, consistency and efficiency to the Ministerial Relief application process. The new regulations govern the overall application process only which will contribute to greater management of the existing inventory. To further increase program efficiencies, a national Case Management System that allows tracking of ministerial relief processing and information along the immigration enforcement continuum is critical in order to minimize risk of errors and increase processing of applications. [Source:

- Officers dedicated to the Inland Enforcement program often have to complete a myriad of forms linked to specific processes (e.g. investigations, detentions, hearings, removals). This activity is for the most part manual and time-consuming. A programmatic review of all the forms needed for the Inland Enforcement program would most certainly result in finding efficiencies (e.g. forms to be generated and pre-populated via a system).
- All CBSA regions have established operational support units intended to provide integrated support to criminal investigations, intelligence and inland enforcement. As no additional funding was received for the regional Triage Centres, each operates differently (e.g. some has officers from each of the 3 areas within the triage unit, some rely on clerical staff with little to no program experience to screen incoming cases). As a result, immigration investigations is not equally supported in all the regions which may impact effectiveness and efficiency of the program.

Field Code Changed

Field Code Changed

1.8 MANAGING FOR RESULTS

| | | |
|---|--------|--|
| To what extent are the tools of results-based management used to manage the program to achieve results? | High | |
| | Medium | |
| | Low | |

Overall Rationale:

Explain and provide evidence of how the program is managed for results. Questions to consider:

- *Does a valid performance measurement framework exist for this program, including outputs and outcomes?*
 - *What is the data governance over performance, and is there a data strategy?*
 - *Is data regularly collected against this framework?*
 - *Is CBSA experiencing issues in data collection or data integrity for this program?*
 - *Have program targets been set based on analysis of risks within the operating environment and decisions on how best to mitigate or manage that risk?*
 - *Are targets set based on analysis of the balance between departmental costs and stakeholder impact?*
 - *Are evaluations being undertaken to gain insights into possible program improvements?*
 - *Are any other sources of information being utilized (e.g., Performance Measurement Framework data, cost-benefit analyses, environmental scans, other studies such as target group analysis etc.). Please provide titles and dates.*
 - *Does the program measure operations at the cost per unit level?*
 - *Are the stakeholders of this program actively and effectively engaged?*
 - *Are the efforts of this program effectively coordinated with other programs with similar objectives that are delivered within CBSA, by others in the federal government, the private sector, the not-for-profit sector?*
 - *Is there a governance structure in place to actively use performance information such as the performance measurement framework, audits, evaluations and stakeholder feedback, to develop priorities and strategies to improve performance?*
- Logic Model has been developed and approved along with a Performance Measurement Framework (PMF) strategy consistent with Treasury Board's new Policy on Results requirements as well as to support program evaluations. PMF indicators are regularly collected and reported to the Executive Committee bi-annually in the Agency Performance Summary. Furthermore, TBS (via MAF) identified the use of the Agency's PMF to develop branch risk profiles, to track progress via the mid-year reporting exercise and to support discussions on resources allocation at the Executive Committee as a 'notable practice'. A valid performance measurement framework for the program exists: Data on the program is collected annually for the DPR, bi-annually for the Agency Performance Summary and CBSA-IRCC Joint Performance Report, and monthly for the Monthly Operational Bulletin, as required.

While these Results Based Management tools exist, there remain some gaps with respect to national program management and financial management.

Agency budgets are currently managed by taking the previous year's branch forecasts, reduced by a percentage to fit within decreasing authorities, and then delegated to branches without any linkage to Program Authorities. Branches allocate these organizational budgets to the programs they choose. This process reinforces competition between branches to put forward the "best" pressures to receive a larger share of shrinking resources and, Comptrollership is relegated to tracking branch expenditures. Program expenditures and forecasts are not considered in the Agency's regular monitoring and reporting during the fiscal year and are only reconciled at year end.

Managing for results will require a move to a functional (matrix), national management of programs, where the Agency plans, monitors and reports both by branch and results based expenditures and indicators; while enabling a holistic discussions on results, shifting priorities, and long term objectives balanced against the limit of available authorities.

This process is not universally implemented across the agency for each Program. While some Program Management Tables exist, where functional program issues are discussed, and do not oversee all elements required for the national management of the programs (e.g. Travellers, Commercial, Trade, Enforcement and Intelligence, etc. These responsibilities would need to include: the approval of budgetary strategy, program and investments priorities, definition and realization of benefits, the monitoring and review of benefits identified as part of the investment planning process, identification of priority business needs identified as part of the investment planning process and the assessment, and monitoring of risks and mitigation strategies. As such, there is no governance structure which delegates national program budgets to a Program Responsible Executive who plans for the delivery of national programs in accordance with universally applied standards of performance and cost.

In order to move towards results based management, the Agency will need to adopt a holistic process wherein:

- The Agency decides on the results to be achieved for a given year;
 - Determines what inputs are required from Branches by Program;
 - Costs said inputs;
 - Calculates both the Branch and Program budgets for the desired results;
 - Prioritized and scales results until the budget balances;
 - Establishes a yearly plan and budget by Branch and Program which can be reconciled with Program Authorities; and
 - Institutes regular monitoring and reporting.
- Due to the multifunctional role of IEOs and managers in some regions, the financial data for PSSA 53100 (Immigration Investigations) and the staffing numbers dedicated to the Immigration Investigation function may be over-estimated. In addition, other program data is only available at the Directorate-level or only for Immigration Enforcement Program overall, thus limiting the analyses of the program (e.g. cost-per-case, time-use). [Source: 2015 Evaluation of the Immigration Investigations Sub-Program <http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/ae-ve/2015/imm-eng.html# 3e>]

1.9 REVENUES AND COST RECOVERY

| | | |
|---|--------|--|
| To what extent is the department recovering an appropriate level of costs of program delivery through the application of user fees? | High | |
| | Medium | |
| | Low | |

Rationale:

Explain and provide evidence of whether adjustments to user fees are needed. Questions to consider:

- What fees does CBSA collect in relation to this program? When were these fees last updated? How have program costs increased in relation to the fees since that time?
- Are revenue targets in place for this program? Is CBSA currently meeting its revenue targets?
- Does the revenue structure take into consideration both the direct and indirect costs of program delivery?
- Should the fees for this program be updated to better reflect current program delivery costs?
- To what extent does CBSA understand and have data to support the direct and indirect costs of program delivery, the split between public/private benefits, and impact of potential fee adjustments on stakeholders' competitiveness?
- Are there any international comparators or other benchmarks that CBSA could draw on in support of revenue or fee amendments?

- Agency Comptroller and Director General must be consulted in all cases that this section is applicable

- Not applicable to Immigration Investigations.

- There is currently no fee applicable to the processing of a Ministerial Relief application whereas other immigration applications do carry a fee. It is possible to entertain the establishment of a processing fee; however, given that there is relatively few Ministerial applications per year, this would not generate a substantive source of revenue for the Government of Canada.

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1.10 ASSETS, ACQUIRED SERVICES AND REAL PROPERTY

| | | |
|---|--------|--|
| To what extent is this program well served by its capital asset and real property holdings? | High | |
| | Medium | |
| | Low | |

Rationale:

Explain and provide evidence regarding this program's use of CBSA capital assets and real property and how well those capital assets and real property holdings are supporting program delivery. Questions to consider:

- Describe the capital asset and/or real property holdings that are used by this program (e.g., vehicles, office buildings, port/airport facilities etc.) and where these are located.
- Does CBSA have capital assets and/or real property in place to support this program that are not being used (e.g., surplus)?
- Describe any capital assets and/or real property holdings that support this program that are shared with other programs within or outside of CBSA.
- What is the overall condition of the capital assets and/or real property facilities used by the program (e.g. good, fair, poor).
- Over the past four years, has this program had adequate funding in its budget to cover capital expenses and the required maintenance to upkeep the assets?
- Are there opportunities to rationalize this program's use of CBSA capital assets and/or real property to achieve cost savings and are these opportunities being explored?
- Are there alternate means of obtaining the assets/property to deliver this program?
- Director General Transformation and Border Infrastructure and renewal and Director General National Real Property and Accommodations must be consulted in all cases that this section is applicable
- **NOTE: State if no capital assets or real property exist for this program (no further details required)**

- All capital assets (e.g. vehicles, arming equipment, etc.) or real property for this program are centrally managed.
- Interpreter and translation services are essential to the success of the program and have a significant impact on the immigration enforcement continuum. These services are generally paid out of the regional budgets.

OVERALL PROGRAM SUMMARY AND CONCLUSIONS

Summary of the assessments for this program.

| Area of Assessment | | Rating (check appropriate box) | | |
|--------------------|------------------------------------|---------------------------------|--------|-----|
| | | High | Medium | Low |
| 1.3 | Government Priority | | | |
| 1.4 | Federal Role | | | |
| 1.5 | CBSA Role | | | |
| 1.6 | Relevance – Continued Program Need | | | |
| 1.7.1 | Performance – Effectiveness | | | |
| 1.7.2 | Performance – Efficiency | | | |
| 1.8 | Managing For Results | | | |
| 1.9 | Revenues and Cost Recovery | | | |
| 1.10 | Capital Assets and Real Property | | | |

Link to Internal Reallocation Proposal #s and Investment Proposal #s.

OVERALL LINK TO RENEWAL PRINCIPLES

| Renewal Principle | Rating (check appropriate box) | | |
|------------------------------------|--|--------|-----|
| | High | Medium | Low |
| Focused Role | | | |
| Specialization and Standardization | | | |
| Client-Focused Quality | | | |
| Upstream Investments | | | |
| Push to Market | | | |

Explain links to Renewal Principle(s).

ENDORSEMENTS

Name
Vice President, (Branch Name)

Signature

Date

Name
Director General, (Directorate Name)

Signature

Date

Operational Work Plan

Ministerial Relief
Unit
Enforcement and
Intelligence
Programs
Directorate
(EIPD)

REVISION TABLE

| Revision Number | Date of Issue | Author(s) | Brief Description of Change |
|-----------------|---------------|-----------|-----------------------------|
| V 1.0 | | | |
| | | | |
| | | | |

Completion instructions: Information in italics can be removed upon completion of the document as they are meant to provide guidance on completing the sections.

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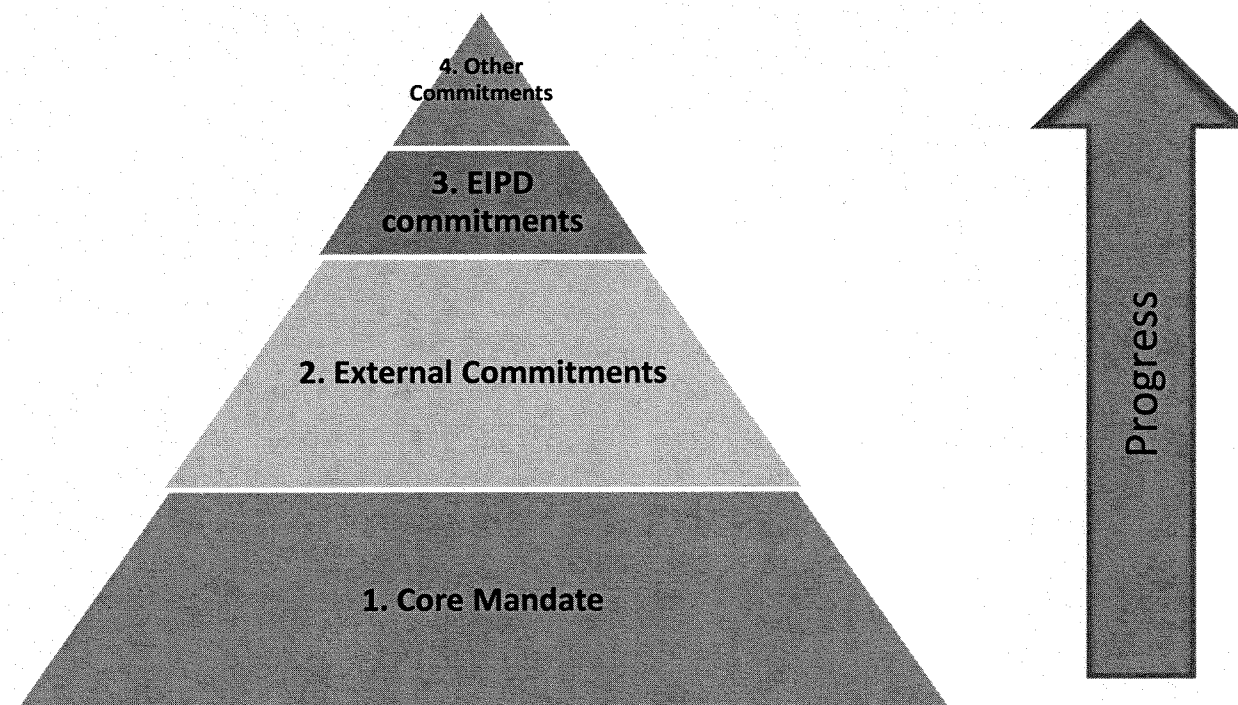
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1 About this work plan

This document outlines the work that the (*Specify Unit, Directorate*) expects to accomplish during the 2017-2018 fiscal year. The financial and human resources required to fulfill the operational obligations and related priorities of the unit are also detailed herein. The work plan will be reviewed continuously throughout the year, to ensure that the unit remains on track with key commitments, budgetary constraints, new demands and opportunities. It is complimentary to other key planning documents, including the Agency Integrated Business Plan, the E&I Functional Integrated Business Plan, Travel, Hospitality and Conference Plan, and the Agency's Departmental Results Plan. It will also help guide period forecasting exercises throughout the fiscal year.

This fiscal year, key activities and deliverables are to be prioritized as follows (see definitions below):



1. Core mandate activities that are the essential work of the Agency. This includes Horizontal Initiatives for which EIPD is the lead for the agency or has a role to play. While all the work we do is core mandate, certain initiatives are done to meet specific external commitments or internal priorities.
2. Specific initiatives and external commitments such as the OAG/Evaluation commitments that are commitments for this fiscal year, Cabinet commitments, etc.
3. Specific commitments which support internal EIPD initiatives or deliverables.

4. Other, less essential, commitments

Full time equivalent (FTE) resources and Operations & Maintenance (O&M) expected forecasts must be clearly linked to one of these priorities in section 2.1 Key Activities and Deliverables, to allow for more fully developed analysis of impacts if budget requirements are not allocated or if the activities cannot be undertaken for any reason.

2 Unit Mandate and Responsibilities

Ministerial Relief Unit (MRU): Responsible for the Ministerial Relief (MR) Program, including program management and operational delivery.

Key responsibilities include:

- Operations related to the preparation and processing of MR case files and providing recommendations to the Minister of Public Safety and Emergency Preparedness on whether to grant MR requests for individuals who are inadmissible to Canada under sections 34, 35(1)(b) and (c), and 37 of the IRPA.
- Program management, including operational directives/field guidance, monitoring MR-related litigation and jurisprudence and providing relevant input, and program-related input to MR-related policy or legislative amendments.

| Organizational Alignment | |
|-------------------------------|---|
| Program Activity Architecture | 1.5 Immigration Enforcement |
| 2017-2018 Priorities | Program priorities <ul style="list-style-type: none">• Program Management |
| Governance | Enforcement and Intelligence Program Management Table (E&I PMT) |

2.1 Key Activities and Deliverables

Include all expected work deliverables for the Fiscal Year (FY), including the resource requirements needed, and target completion dates. Key activities can be 'sorted' by theme and specific work deliverables then further described, as per chart below.

Priority 1: Core Mandate

| Activity | Description | FTE Planned | Level Planned | FTE Actual | Level Actual | Co mp le ti on da te | Link to Programs Branch priority | Link to Report on Plans and Priorities Priority | Link to CBSA Priority | Salary | O&M | Funding Source | Status Update |
|---|---|----------------|------------------|---|--|--|---|---|-----------------------------|--------|--|-------------------|------------------|
| Prepare MR recommendations for the MPSEP A | <ul style="list-style-type: none"> Research and drafting of Ministerial Relief recommendations Drafting of immigration histories and preparation of file prior to assignment | ? 1.4 | FB06 FB04 | 5 FB-04 @ 0.7 1 FB-08 @ 0.3 2 FB-06 @ 0.3 | 2 FB-04 @ 0.7 4 FB-06 @ 0.18 1 FB-08 @ .05 1 FB-08 @ 0.1 3 FB-06 @ 0.2 Supervision: 1 FB-08 @ 0.2 2 FB-06 @ 0.2 | On goi ng | | | Legislative requirement | | Ergonomic Training | A-base | XXX |
| Support MR program C | <ul style="list-style-type: none"> Production of court records (Certified tribunal records, affidavits, etc.) Full implementation of regulatory changes (training, procedure changes, closing of applications etc.) Responding to correspondence concerning MR matters (MinCor, MP enquiries, applicant case | .25 .10 | FB06 FB04 | | | On goi ng | | | Legislative requirement | | Binding Mail/courier MR-specific supplies Training | A-base | |

| Activity | Description | FTE Planned | Level Planned | FTE Actual | Level Actual | Co mp leti on dat e | Link to Programs Branch priority | Link to Report on Plans and Priorities Priority | Link to CBSA Priority | Salary | O&M | Funding Source | Status Update |
|----------|--|----------------|------------------|---------------|-----------------|------------------------------------|---|---|-----------------------------|--------|-----|-------------------|------------------|
| | <p>status updates, etc.)</p> <ul style="list-style-type: none">• Litigation support (review of memoranda of argument, participation in teleconferences, etc.)• Update and review of existing organization backgrounders and contextual packages• Creation of standard text and response to legal arguments glossary (including continuous updating and maintenance)• Clerical and administration (e.g. budget and HR support, supply orders, etc.)• Overhaul of MR inventory | | | | | | | | | | | | |

| Activity | Description | FTE Planned | Level Planned | FTE Actual | Level Actual | Co mp leti on dat e | Link to Programs Branch priority | Link to Report on Plans and Priorities Priority | Link to CBSA Priority | Salary | O&M | Funding Source | Status Update |
|---------------------------------------|---|----------------|------------------|---------------|-----------------|------------------------------------|---|---|-----------------------------|--------|-----|-------------------|------------------|
| | functionality (excel) <ul style="list-style-type: none">• Peer review; delivery of case presentations at monthly meetings• Negotiations with program stakeholders concerning outstanding issues (CSIS information sharing/use; review of DLSU involvement, etc.) | | | | | | | | | | | | |
| Support to management and corporate B | <ul style="list-style-type: none">• Drafting of briefing materials concerning the MR program (briefing notes, decks, QPNs, etc.)• Generating responses to ATIP requests on MR files | | | | | On goi ng | | | | | N/A | | |

2.2 Red Line Activities

Please list here activities that you will not be able to get to and why (insufficient resources, etc.)

| Activity | Justification |
|---|--|
| MR is a legislated requirement and therefore the files must be processed. However, the volume of cases produced for disclosure to applicants and for Ministerial decision will be directly impacted by the level of FTEs within the unit. | The unit is currently operating at 58% of its permanent staffing complement of 12. While there were previously 4 support positions (1 CR04 and 3 FB02s), there are now none. This means that FB04s, FB06s and the FB08 are required to do a significant amount of basic administrative work (large volumes of photocopying for ATIPs and Certified Tribunal Records for litigation, mail, file creation and systems updates, collecting files from the registry, researching and preparing applicant immigration histories, managing supply and ergonomic orders, etc.). |
| The age of the inventory has resulted in growing volumes of litigation and the unit will not be able to meet court directives if more mandamus orders (requiring the CBSA to provide a recommendation or the Minister to render a decision within a specific timeframe) are issued. | Same as above. |

3 Human Resources Plan

| Current State | | | |
|-----------------|------------------------|-----|----------------------|
| Group and Level | Title | FTE | Language Proficiency |
| FB08 | Manager | 1 | Bilingual CBC |
| FB06 | Senior Program Advisor | 2 | English Essential |
| FB06 | Senior Program Advisor | 2 | Bilingual BBB |
| FB04 | Senior Program Officer | 1 | English Essential |
| FB04 | Senior Program Officer | 1 | Bilingual BBB |
| Total FTEs | | 7 | |

| Required State | | | |
|-----------------|------------------------|-----|----------------------|
| Group and Level | Title | FTE | Language Proficiency |
| FB08 | Manager | 1 | Bilingual CBC |
| FB06 | Senior Program Advisor | 4 | English Essential |
| FB06 | Senior Program Advisor | 2 | Bilingual BBB |

| | | | |
|-------------------|------------------------|-----------|--------------------------------------|
| FB04 | Senior Program Officer | 1 | English Essential |
| FB04 | Senior Program Officer | 1 | Bilingual BBB |
| FB02 | Junior Program Officer | 1 | English Essential |
| FB02 | Junior Program Officer | 1 | Bilingual BBB |
| CR04 | Program Support Clerk | 1 | English Essential or Bilingual - BBB |
| Total FTEs | | 12 | |

3.1 Staffing Plan

The intention is to fill the vacant or required positions with indeterminate staff through an internal at-level advertised process.

4 Financial Plan

This section should include your Salary and O&M requirements for the FY. An Activity Type (AT) Fund Mapping chart is provided below for identifying Salary requirements. ATs can be found in the AT Dictionary:

A table for O&M is also provided – this should include items such as Travel, Training, Contracts, Consultants, RFP, Translation, Supplies, etc. Where appropriate, Funds Reservation Numbers can be identified when/if commitments are created within CAS. The General Ledger structure can be found here.

For B-base forecasts, the funding sources (i.e. project name) should be included in the Notes section.

Cost Centre: 1841-XXX-XX

4.1 Salary

| Salary Forecast | | | | | | | | | | | | | | |
|-----------------|---------------------|------------|------------|-------------|--------------|--------|-------|------|----|--------|-------|------|----|------------------------------|
| Employee | | | | Rate of pay | Total Salary | A-Base | | | | B-Base | | | | Notes |
| Level | Last and First Name | Start Date | End Date | | | PSSA | AT(s) | Fund | % | PSSA | AT(s) | Fund | % | |
| FB06 | Joe Worker | 2016-04-01 | 2017-03-31 | | | 55100 | 533 | 1001 | 50 | 55100 | 575 | 2001 | 50 | Refugee Reform work (b-base) |
| | | | | | | | | | | | | | | |

4.2 Operations & Maintenance (O&M)

For O&M please use the following Worksheet to input your O&M forecast in the BPC toll. Once completed we will be able to print out a copy of the worksheet as an appendix. (see figure below)

- Travel Hospitality Worksheet
- Good, Professional Services and Informatics Worksheet
- Worksheet for other expenditure categories
- Please enter a specific line item for each O&M piece with a note in comments as to what it is for (i.e. \$ 500 (comment: visio license))

HOME SCREEN v14.xdm - Excel

FILE HOME INSERT PAGE LAYOUT FORMULAS DATA REVIEW VIEW EPM APOLLO CONNECT

Clipboard Font Alignment Number Styles Cells Editing

EPM Context: AUDITTRAIL: Audit Trail Total CATEGORY: Q2 Fcst CC: INLAND ENFORCEMENT PROGRAM MANAGEMENT DI FUND: ALL FUNDS - ALL FUNDS GL: ALL_GL - ALL_GL PSSA: PA0850 - CBSA PROGRAM ACTIVITY TIME: Jun 2017 WBS: ALL_WBS - ALL_WBS MEASURES: PERIODIC - Periodic

Model/FIN_FCST:

J30

Canada Border Services Agency / Agence des services frontaliers du Canada

CBSA Forecasting / ASFC Prévision

MY COST CENTER FORECAST / MES PRÉVISIONS

Salary Worksheet / Feuille de travail des salaires

Travel Hospitality Worksheet / Feuille de travail des voyages et de l'accueil

Goods, Professional Services and Informatics Worksheet / Feuille de travail des biens, des services professionnels et de l'informatique

Worksheet for other expenditure categories / Feuille de travail des autres catégories de dépenses

PROJECT SUMMARY / SOMMAIRE DES PROJETS

2016/2017 MY COST CENTER FORECAST / MES PRÉVISIONS

2016/2017 PROJECT SUMMARY / SOMMAIRE DES PROJETS

Canada Border Services Agency / Agence des services frontaliers du Canada

MY FORECAST

Please see the BPC budgeting tool for O&M forecasts

5 Budget Allocations

This section can be completed once the EIPD budget has been allocated. Budgets are typically allocated to the Director General Cost Centre level by Comptrollership. The GFOU, in collaboration with the divisional units, will then allocate the EIPD budget to the divisional unit Cost Centre level.

| | A-Base | | | B-Base | | | Total | | |
|-------|---------|--------|---------|--------|--------|---------|---------|--------|---------|
| PSSA | Salary | O&M | Total | Salary | O&M | Total | Salary | O&M | Total |
| 15100 | 100,000 | 85,000 | 185,000 | | | | 100,000 | 85,000 | 185,000 |
| 45100 | | | | 96,000 | 15,000 | 111,000 | 96,000 | 15,000 | 111,000 |
| 53100 | 50,000 | | 50,000 | | 15,000 | 15,000 | 50,000 | 15,000 | 65,000 |

Appendix A: Additional information sources

Please see below for links to sources for additional information that may be useful in the development and monitoring of your work plan:

CAS Coding Manual:

Support email mailboxes:

Financial transactions: CBSA-ASFC_FSDC-CPSF FSDC-CPSF@cbsa-asfc.gc.ca

COMPAS support: CBSA-ASFC_COMPAS-SAPMC COMPAS-SAPMC@cbsa-asfc.gc.ca

CAS support: CBSA-ASFC_CAS_AdminServ-SAE_ServAdmin H1ACASAg@cbsa-asfc.gc.ca

Designated Financial Authority (DFA) support: CBSA-ASFC_DFA-DPF DFA-DPF@cbsa-asfc.gc.ca

Project System (PS) and Work Breakdown Structure (WBS) support: CBSA-ASFC_Project_System-Système_de_gestion_de_projets Project_System-Systeme_de_gestion_de_projets@cbsa-asfc.gc.ca

Salary Forecasting System (SFS) support: CBSA-ASFC_SFS_SFS-SUPPORT sfs-support@cbsa-asfc.gc.ca

Human Resources systems (ie. questions re: ESS/MSS): CBSA-ASFC_HR_SUPPORTNETWORK-RH_RESEAUEDESOUTIEN HR_SUPPORTNETWORK-RH_RESEAUEDESOUTIEN@cbsa-asfc.gc.ca

HR processes support: CBSA-ASFC_HR-RH_Processes-Processus HR/RH.PROCESS@cbsa-asfc.gc.ca (or Meghan McEachern – HR Advisor)

HQ Compensation support: CBSA-ASFC_HQ-Compensation hq-compensation@cbsa-asfc.gc.ca

Pay and Benefits questions: CBSA-ASFC_HQ_Pay_and_benefits/remuneration CBSA-ASFC_HQ_Pay_and_benefits/remuneration@cbsa-asfc.gc.ca

Security Access ID: CBSA-ASFC, Security_ID-Access_Card_Enquiries-HQ Security.CBSAHQ@cbsa-asfc.gc.ca

Security Screening Enquiries: CBSA-ASFC_HQ_Security-AC_Sécurité_Screening_Enquiries HQ_Security-AC_Securite_Screening_Enquiries@cbsa-asfc.gc.ca

IT Helpdesk: CBSA.HQITHelpDesk-BureaudAideTIAC.ASFC CBSA.HQITHelpDesk-BureaudAideTIAC.ASFC@cbsa-asfc.gc.ca

UNCLASSIFIED



Canada Border
Services Agency

Agence des services
frontaliers du Canada

Border Services



Services frontaliers

Ministerial Relief – Frequently Asked Questions

1. *Why is Ministerial relief (MR) intended to be “exceptional”?*

Parliament purposefully implemented an inadmissibility regime that captures not only individuals who have themselves committed or engaged in certain impermissible acts (e.g. terrorism, subversion by force, organized criminality, etc.), but also those who have been members of organizations or representatives of governments that have engaged in such acts. This means that an individual's involvement with, or support of, such entities – past or present – is inherently incompatible with the values of Canadian society and the democratic spirit of the Canadian federation, and is thus contrary to our national interest. It is for this reason that a permanent exemption from these most serious inadmissibilities is, as acknowledged by the courts, meant to be an exception, and requires that an applicant must satisfy the Public Safety (PS) Minister, *personally*, that the granting of relief would not be contrary to the national interest. Unlike the majority of Ministerial authorities under the *Immigration and Refugee Protection Act* (IRPA), MR is one of the few decisions that cannot be delegated to officials.

2. *Many MR applicants seem to have never personally engaged in any sort of violence or criminal activity. Why would the granting of relief to these people be contrary to the national interest?*

Most MR applicants are inadmissible for their membership in an organization (linked to terrorism, organized crime, etc.) or for having held senior positions in a designated regime (i.e., one responsible for committing acts of terrorism, war crimes or human rights violations). Many of these applicants claim to have never been personally engaged in violent or criminal activities during their membership or years of service. Whether or not the individual was directly involved in violence, terrorist acts or criminal activity on behalf of the entity they served, their participation in its other activities contributed to, enabled or supported the agenda or the operations of the organization/regime as a whole, and/or they may have exerted influence or benefitted from their association with the entity in question.

There are many factors considered in the MR context in relation to the nature and extent of an individual's involvement with an organization/regime that go beyond direct involvement in violence or criminal activity. They include, but are not limited to: circumstances surrounding the individual's affiliation with a group/government, including reasons for joining and whether it was voluntary; length of involvement; nature of deeds undertaken on behalf of the entity; whether the individual willingly participated in activities; whether they progressed through the ranks, exerted influence or benefitted from the affiliation; and whether they disassociated from the entity at the first available opportunity; etc. MR also looks at whether the applicant has provided consistent and plausible information, throughout their statements given to Canadian officials and/or foreign authorities (if applicable), with respect to their association with the entity that has resulted in their inadmissibility.

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3. Many MR applicants claim that they were not official or formal members of organizations, simply supporters or sympathizers who engaged in low-level or minor activities. Why are they still considered members under the inadmissibility provisions?

The courts have ruled that, in the admissibility context, membership should be broadly defined. An individual is not required to be an "official", "formal" or "card-carrying" member in order to meet the definition of membership under the IRPA. What is of relevance is that the person provided support, material or otherwise, to the organization with which they associated. Many individuals claiming to have been only supporters or sympathizers do, therefore, meet this criterion for "membership".

It is important to note that determining membership in an organization and the corresponding finding of inadmissibility can be challenged through the courts. Therefore, an inadmissibility finding is not meant to be reviewed during an MR assessment; it is accepted as an established fact.

Whereas a finding of inadmissibility is related solely to whether there exist reasonable grounds to believe that a person was (or is) a member of an organization, MR looks at case-specific factors surrounding the nature, extent and quality of an individual's membership, as well as national security and public safety (NSPS) and other national interest factors that go beyond membership, in order to determine whether there exist any special circumstances warranting relief, notwithstanding the applicant's underlying inadmissibility. This is often a challenging task as it may be difficult to ascertain the true extent and nature of an applicant's role and activities on behalf of the organization, given that MR is not an investigative process: the assessment is based solely on an applicant's own admittance, unless other intelligence or evidence is available. This is why MR unit conducts a thorough assessment of the totality of an applicant's statements given to government officials, security and law enforcement agencies, and/or quasi-judicial and judicial bodies (these may include immigration and refugee applications, interview notes, hearing transcripts, security reports, case memoranda from IRCC or CBSA officers, court testimonials, and other records), as well as the applicant's own submissions toward their MR application. Discrepancies and inconsistencies found in an applicant's accounts are identified, such as, for example, any belated attempts to minimize, downplay or contradict their previous, more incriminating statements given to Canadian officials. All of the above information is then carefully analyzed and ascribed weight in the context of the national interest assessment before a final conclusion to recommend denying or granting relief is reached.

4. Many inadmissible senior officials of designated regimes do not seem to have been complicit in the planning or execution of war crimes or human rights violations. Why would the granting of relief to these people be contrary to the national interest?

Individuals found to be complicit in war crimes or human rights violations are in fact barred from applying for MR. Parliament has thus clearly determined that complicity in international crimes is too serious an offence to ever justify relief. With respect to inadmissible senior officials of designated governments for whom complicity has not been established, Parliament concluded that such individuals must bear responsibility for the activities of the regime that they chose to serve. In the assessment of national interest, consideration would be given to exceptional circumstances that may warrant relief despite the person meeting the test for inadmissibility.



5. Why is the CBSA recommending that relief be denied to an individual who has no history of association with a criminal or terrorist organization in Canada, is successfully established here, and/or does not have a criminal record?

While an applicant's activities and establishment in Canada, including their lack of criminal activity here, may be relevant considerations within the national interest spectrum, MR is not temporally limited by means of a "forward-looking" test. Section 33 of the IRPA stipulates that the grounds constituting inadmissibility are not limited to present activities, but rather include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur. While the passage of time since an individual's disassociation from an impugned entity may be given more or less weight by the Minister in relation to other case-specific circumstances, it alone neither automatically negates the past activities that led to the finding of inadmissibility nor diminishes the requirement to satisfy the Minister that relief would not be contrary to the national interest.

6. Why is the CBSA recommending that relief be denied to an individual who does not seem to pose a current or future danger or threat to Canada's security or safety?

The terms "national security and public safety" (NSPS) and "national interest" have never been defined, either in legislation or by the courts. Both of the latter, however, indicate that while NSPS considerations are the predominant elements of national interest, there is no requirement for the Minister to find that the individual poses a current or future threat/danger to Canada in order to deny relief. In fact, in the seminal MR case to date (*Agraira*), the Supreme Court of Canada upheld the Minister's decision to deny relief wherein the Minister's reasons did not specifically refer to the issue of current or future threat posed by the applicant. Furthermore, the current legislation (IRPA paragraph 42.1(3)), updated in 2013, explicitly states that, "[i]n determining whether to make a declaration [of relief]...in his or her analysis, [the Minister] is not limited to considering the danger that the foreign national presents to the public or the security of Canada". The Supreme Court also stated that relief is a discretionary exercise in which the Minister is entitled to deference regarding his interpretation of what is in the national interest.

Again, this does not mean that the absence of a defined danger is not considered as a relevant factor in the context of the national interest assessment, only that it may not necessarily be given significant weight, depending on many other case-specific circumstances.

7. If most MR decisions are negative, why are so many MR applicants still in Canada?

This happens for a number of reasons. MR is not directly related to the removal process. That is, an outstanding MR application does not stay removal of an inadmissible foreign national, and nor does a denial of relief by the Minister of Public Safety automatically result in an existing removal order becoming enforceable.

Issuance of a removal order to a foreign national requires a finding of inadmissibility. Until new MR regulations came into force on March 10, 2017, there was no requirement to have a final inadmissibility determination prior to applying for MR. In addition, while this is no longer the practice, past IRCC policies resulted in many cases in the inventory being reported for inadmissibility but not being referred to the IRB for a final determination while the MR decision was pending. Therefore, the individual could not be issued a removal order.



In addition, for foreign nationals who have been issued a removal order, there are various avenues of recourse and stay mechanisms which may delay removals of inadmissible foreign nationals for many years, and sometimes indefinitely. Among these are individual deferrals of removal granted by CBSA officers (usually brief, to accommodate special needs); PS Minister- or court-granted stays (usually pending a specific process or decision); IRCC Pre-Removal Risk Assessments (PRRA, which could lead to protected person status and ultimately permanent residence); region- or country-specific Temporary Suspension or Administrative Deferral of Removals (which may be in place for years before conditions normalise or the risk has diminished in those areas); United Nations Interim Measure Requests (asking the CBSA to postpone removal until the UN has reviewed the case); and Humanitarian and Compassionate applications¹ to the IRCC Minister (which, if granted, overcome any inadmissibility preventing status in Canada).

Finally, many MR applicants in the CBSA's active inventory are Convention refugees or protected persons living in Canada who, at present, cannot be removed without a danger opinion, due to the principle of non-refoulement, and Canada's international obligation that have been adopted by our domestic IRPA legislation.

8. Are you saying that many MR applicants are Convention refugees who are going to remain in Canada even if MR is denied to them? Why not just grant them MR rather than letting them remain in this state of "limbo"?

Applications for MR are often submitted by persons who have been granted Convention refugee or protected person status when those persons make applications for permanent resident status. While vetting the applications for permanent residence, new information may come to the attention to an IRCC official that the person might be inadmissible on serious grounds, which would then have prompted an application for MR. Despite the challenges faced by the CBSA in removing foreign nationals in these circumstances, the interests of the immigration enforcement program nevertheless benefit from a full and proper weighing of the merits of the application. Granting MR to a foreign national would foreclose the possibility of removal of the person on those very serious grounds, and would open the foreign national to being granted permanent resident status. Rejecting the MR application, on the other hand, would allow the CBSA to remove the foreign national when the circumstances permit.

Granting refugee protection or protected person status to a foreign national means that Canada has fulfilled its primary international obligation with respect to that individual by respecting the principle of *non-refoulement*, ensuring that they are not returned to a place where they may be persecuted or face death, torture, or cruel or inhumane treatment. While not constituting permanent resident status under the IRPA, Convention refugee or protected person status allows a foreign national living in Canada to benefit from many rights and freedoms in accordance with the UN Convention (e.g., health care, education, employment, etc.). These individuals are also able to travel abroad (with the exception of returning to their country of claimed persecution if they are travelling on a refugee travel document).

¹ With the June 20, 2013 coming-into-force of Bill C-43, foreign nationals found to be inadmissible under IRPA sections 34, 35 and 37 are no longer eligible for H&C consideration. However, H&C applications received prior to that date will continue to be processed, including those who have also applied for MR.



Being afforded protection in accordance with the UN Convention does not prevent a person from subsequently being deemed inadmissible to Canada, as becoming a permanent resident is subject to meeting a number of statutory requirements. While the IRPA and related regulations relieve protected persons from some inadmissibilities (e.g., medical) when they are applying for permanent residence in Canada, the legislation does not exempt them from the most serious inadmissibilities - those which fall under sections 34 (security), 35 (international or human rights violations), 36 (criminality) and/or 37 (organized criminality). The legislative scheme established by Parliament thus recognized and intended that some Convention refugees or protected persons inadmissible on serious grounds may never acquire permanent resident status here.

While an inadmissible foreign national's Convention refugee status in Canada is always considered in the context of a national interest assessment, it generally is not deemed to be a determinative factor warranting relief. In other words, protected person status, in and of itself, does not entitle an applicant to MR and thus the privilege of being granted permanent residence and eventually Canadian citizenship.

9. So, are these inadmissible refugees going to stay in Canada indefinitely?

That is impossible to predict and depends on many case-specific factors. Some seriously inadmissible foreign nationals with protected person status may, in fact, end up staying in Canada indefinitely. Others whose refugee protection has later ceased² or been vacated³, or those seriously inadmissible protected persons for whom the IRCC Minister is of the opinion that they should not be allowed to remain in Canada due to the nature and severity of their acts or because they constitute a danger to the public or to the security of Canada (commonly referred to as a 'danger opinion'), may be removed.

Foreign nationals with serious inadmissibilities who have lost Convention refugee status are still entitled to a limited PRRA prior to removal from Canada. Those found to be at risk of torture, risk to life or cruel and unusual treatment or punishment cannot be deported. However, a Convention refugee or protected person against whom a danger opinion is issued by a Minister Delegate may be removed from Canada.

² Cessation – The person no longer requires Convention refugee or protected person status (e.g., conditions have changed in their country of nationality; they have voluntarily re-availed themselves of the protection of their country of nationality; they have obtained protection/citizenship from another country, etc.).

³ Vacation – The person's refugee status is removed because it was obtained by misrepresentation.

Campbell, Jamison

From: Ott, Lydia
Sent: May 16, 2017 12:38 PM
To: Bosse, Julie
Subject:

Thanks Julie. Lydia

From: Bosse, Julie
Sent: May 16, 2017 12:01 PM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>
Subject:

From: Ott, Lydia
Sent: May 16, 2017 11:32 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject:

Hi Julie,

Lydia

From: Bosse, Julie
Sent: May 16, 2017 10:10 AM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>
Subject:

Hello Lydia,

Campbell, Jamison

From: Hanton, Ashley
Sent: April 24, 2017 01:11 PM
To: Calma, Gordan; Campbell, Jamison
Subject: FW: Inadmissibility stats

Fyi

Ashley Hanton
 Ministerial Relief Unit
 613-960-9545

From: Hanton, Ashley
Sent: April 24, 2017 12:55 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: Inadmissibility stats

Hi Tracey,

Based on our August 2016 review of information we collected from our records, IRCC regional offices, and the electronic enforcement/immigration databases (GCMS and NCMS), 64 of our applicants had APRs pending at that time. Unfortunately we are not able to gather updated numbers within this short timeframe. If we assume, based on the August 2016 numbers, that all other cases in our inventory have had a finding of inadmissibility, we could say that approximately 75% of applicants in our inventory have been found inadmissible.

We can note that:

Prior to the coming-into-force of C-43 regulations for MR, there was no requirement for an individual to have been found inadmissible in order to apply for relief. We therefore had not been tracking information related to whether or not the individual had a formal inadmissibility finding. In order to obtain accurate numbers (which are always in flux given that IRCC is in the process of reducing their own backlog of cases) we would need time to conduct a thorough review of our entire inventory (301 cases) as well as enforcement/immigration systems, and to consult with IRCC regional offices and possibly IRCC NHQ Case Management, for further information.

Thanks,

Ashley Hanton

Senior Program Officer - Ministerial Relief Unit, Programs Branch
 Canada Border Services Agency / Government of Canada
Ashley.Hanton@cbsa-asfc.gc.ca / Tel: 613-960-9545 / TTY: 866-335-3237

Agente principale de programme - Unité de la dispense ministérielle, Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Ashley.Hanton@cbsa-asfc.gc.ca / Tél: 613-960-9545 / ATS: 866-335-3237

Ministerial Relief Inventory and Litigation

-
- Current backlog (pre and post new regulations coming into force)
- How many MR files are in the MO for a decision, and how many will be provided this year.
- Recent Court Order Decision on Mandamus Application (overall timelines, what happens if no decision rendered in time, when can the Minister expect to see the case etc.)
- Other Mandamus Applications filed (how many, when will they be heard...)

The Ministerial Relief (MR) Unit currently has an inventory of # cases, of which

There are currently four MR files awaiting the Minister's decision, delivered to the Minister's office between February 2 and August 8, 2016.

There are two mandamus applications pending with the Federal Court, both submitted

Campbell, Jamison

From: Vansickle, Tracey
Sent: April 21, 2017 03:08 AM
To: Ducharme, Nyiri
Cc: StMarseille, Richard
Subject: RE: MR Documents
Attachments: MR overview for MO 2017-04-21 CLEAN.docx; 2017 MR FAQs - updated 2017-04-21 CLEAN.docx

Hi Nyiri,

Please find attached and at the hyperlinks below, the updated documents. Note that the FAQs were originally designed for briefing the MO and are not time-specific, so they did not need to be modified.

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Ducharme, Nyiri
Sent: April 20, 2017 8:59 AM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: MR Documents

Hi Tracey,

Please see tasking below for a review of the two documents listed below, making changes as needed given the intended audience (MO).

Please BF to DO for 10am April 21.

Many thanks,
Nyiri

From: Henderson, Lana
Sent: April 19, 2017 5:43 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: Fw: MR Documents

Hi Richard,

Please update the listed documents below as required.

Please BF to DGO noon, April 21, 2017.

Thanks,
Lana

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Sent: Wednesday, April 19, 2017 3:30 PM
To: Henderson, Lana; Byrne, Patrick
Cc: Remy, Gaelle; Vigliotti, Maria; Mousseau, Pauline; Patrice, France; Carbonneau, Alex
Subject: MR Documents

The PO received two documents from Programs' MRU:

Overview of Ministerial Relief
Ministerial Relief – Frequently Asked Questions

The PO would like to provide these as job aides to the MO, but first is requesting that they be review in light of the intended audience.

For example, in the Overview document, on page 4 it notes an MRU staffing plan.

Once ready, please send to me electronically and update ccm – BF Monday Noon MAX

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada
Nathaliex.Blanchard@cbsa-asfc.gc.ca /tél.: 613-954-7527

Chief of staff for VP, Programs Branch
Canada Border Services Agency
Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tel: 613-954-7527

Campbell, Jamison

From: StMarseille, Richard
Sent: April 21, 2017 06:29 PM
To: Vansickle, Tracey
Subject: MR Documents - MR overview and FAQs for MO job aids
Attachments: MR overview for MO 2017-04-21 CLEAN.DOCX; 2017 MR FAQs - updated 2017-04-21 CLEAN.DOCX

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Sent: Friday, April 21, 2017 6:28 PM
To: Blanchard, NathalieX
Cc: Henderson, Lana; Byrne, Patrick; StMarseille, Richard
Subject: MR Documents

Nathalie,
As requested, attached are the revised documents.

Jennifer Lutfallah

From: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Sent: Wednesday, April 19, 2017 3:30 PM
To: Henderson, Lana; Byrne, Patrick
Cc: Remy, Gaele; Vigliotti, Maria; Mousseau, Pauline; Patrice, France; Carbonneau, Alex
Subject: MR Documents

The PO received two documents from Programs' MRU:

Overview of Ministerial Relief
Ministerial Relief – Frequently Asked Questions

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For example, in the Overview document, on page 4 it notes an MRU staffing plan.

Once ready, please send to me electronically and update ccm – BF Monday Noon MAX

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada
Nathaliex.Blanchard@cbsa-asfc.gc.ca /tél.: 613-954-7527

Chief of staff for VP, Programs Branch
Canada Border Services Agency
Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tel: 613-954-7527

Campbell, Jamison

From: StMarseille, Richard
Sent: April 24, 2017 01:31 PM
To: Lutfallah, Jennifer
Cc: Vansickle, Tracey
Subject: FW: MR cases without an inadmissibility decision

Importance: High

Hi Jennifer,

FY below r.e. Peter's question of this morning.

Tks.

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Vansickle, Tracey
Sent: April 24, 2017 1:02 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: MR cases without an inadmissibility decision
Importance: High

We estimate that approximately 25% of pending MR cases do not have an inadmissibility finding.

Caveat: We don't track in the inventory whether cases have a formal admissibility finding; therefore, without doing a case-by-case review of systems and consulting with IRCC, we are only able to give an approximation of the volume of pending MR cases which do not have a final finding of inadmissibility. This is based on a case-by-case review that we completed in August 2016, and then taking into consideration cases that have been removed from the inventory since that date.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada



Canada Border
Services Agency

Agence des services
frontaliers du Canada



Ministerial Relief

Briefing to the Minister

November 28, 2016

Updated March 3, 2017

PROTECTION SERVICE INTEGRITY
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Canada



Purpose

- To provide you with an overview of the Ministerial Relief (MR) authority
- To brief you on the proposed Ministerial Relief Regulations
- To discuss associated procedural enhancements



Inadmissibility Framework

IRPA provides a *principles-based* framework for inadmissibility:

- Protect safety and security of Canada and Canadians
- Meet international treaty obligations

| PS Minister | | IRCC Minister | |
|-------------|--|---------------|-------------------------------------|
| Section 34 | Security | Section 36 | Serious criminality and criminality |
| Section 35 | Human or international rights violations | Section 38 | Health |
| Section 37 | Organized criminality | Section 39 | Finance |
| | | Section 40 | Misrepresentation |
| | | Section 40.1 | Cessation |
| | | Section 41 | Non-compliance |
| | | Section 42 | Inadmissible family member |

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3

- The enforcement of inadmissibility under IRPA is guided by a principles-based framework.
- To be admissible, the same criteria apply, whether you seek entry to Canada as a visitor, to work or to permanently live.
- The criteria speak to the safety and security of Canada and serve to uphold Canada's obligations under international treaties (such as the UN refugee convention).
- As an example:
 - membership in a terrorist group (e.g. LTTE) is a ground for inadmissibility:
 - time does not remove your inadmissibility;
 - nor does your role (youth wing, pamphleteer);
 - nor do the ultimate objectives of the group matter – for example, the regime you had sought to subvert may be a corrupt dictatorship and your objectives democratic but if force/subversion is used, you are inadmissible under IRPA.
- The threshold to establish inadmissibility differs depending on the inadmissibility:
 - "Reasonable grounds to believe" for serious inadmissibilities under the

responsibility of the PS Minister, and

- A slightly higher standard – “balance of probabilities” (greater than a 50% likelihood) for grounds of inadmissibility which fall under the IRCC Minister
- These thresholds are a lower standard than in a criminal court (which is “beyond a reasonable doubt”)
- As such, the immigration legislation provides significant latitude to the government to render decisions which ensure the integrity and security of the immigration and refugee systems.



What is Ministerial Relief?

- Ministerial relief (MR) is a recourse of last resort to overcome the most serious immigration inadmissibilities: security; human or international rights violations; and, organized criminality
- Authority can only be exercised by the Minister of Public Safety and Emergency Preparedness (PS Minister)
- To grant relief, the PS Minister must be satisfied that relief is not against the national interest - onus placed on the applicant to demonstrate that relief is not against the national interest
- When granted, MR clears the path for a foreign national to apply to Immigration, Refugees and Citizenship Canada (IRCC) to regularize their status in Canada (e.g., permanent residence)
- MR decisions are reviewable by the Federal Court (FC)
 - Most negative decisions are litigated

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- Ministerial relief (MR) is a recourse of last resort that is available to individuals who seek to overcome the most serious inadmissibilities under IRPA for:
 - security
 - human or international rights violations
 - organized criminality
- It is a safety valve to address disproportionate consequences of certain provisions of the IRPA inadmissibility regime which were intended to have broad application in order to protect Canadian security and values.
- While the CBSA provides a recommendation on whether it would be contrary to the national interest to grant relief, MR is an authority exercised only by the Minister of Public Safety, and may not be delegated.
- In seeking relief, the onus is on the applicant to demonstrate their case by identifying the specific circumstances of their situation.
- When granted, MR clears the path for a foreign national to apply to IRCC to regularize their status in Canada, e.g., the person can apply to IRCC for temporary or permanent resident status.
- MR decisions are reviewable by the Federal Court (FC), with most negative decisions being litigated.

Background:

Section 34 Security: Includes espionage, subversion of governments, engaging in terrorism, being a danger to the security of Canada, engaging in acts of violence that might endanger persons in Canada, or being a member of an organization that engages in espionage, subversion or terrorism. The majority of MR cases are inadmissible for past and/or present membership in a terrorist organization; this does not require that the person committed these acts, only that the group did.

Section 35 Human or international rights violations: Includes senior officials from governments that Canada has designated as having engaged in terrorism, human rights violations or genocide, war crimes or crimes against humanity; or persons subject to international sanctions. Persons who have been directly involved or complicit in committing a war crime or crime against humanity are not eligible to apply for MR (IRPA 35(1)(a)).

Section 37 Organized criminality: Includes being a member of an organization that has engaged in a pattern of joint organized indictable criminal activity; or engaging in people smuggling, human trafficking or money laundering.



Ministerial Relief is not...

- Applicable to individuals directly involved or complicit in **war crimes or crimes against humanity**; criminal inadmissibility; or any other inadmissibility grounds that fall under the purview of the Minister IRCC
- A reassessment of the inadmissibility finding of the Immigration and Refugee Board
- A mechanism to delay removal or any other process (although applicants can separately request a deferral of removal to CBSA or the Federal Court)
- A mechanism to change or provide status
- An alternate recourse mechanism to assess humanitarian and compassionate (H&C) considerations (H&C is a Minister IRCC role)

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- MR does not apply to persons directly involved or complicit in war crimes or crimes against humanity.
- It also does not apply to criminal and other inadmissibilities.
- Individuals seeking exemption from other inadmissibilities, including all forms of criminality other than organized crime, must apply to the IRCC Minister.
- While an MR decision may consider the circumstances surrounding a person's inadmissibility, it must not reassess the inadmissibility finding itself.
- Instead, the Minister must be satisfied that relief is warranted despite the person meeting the test for inadmissibility.
- MR does not delay removal or any other process, although applicants do have the option of separately requesting a deferral of removal from CBSA or the Federal Court.
- The granting of Ministerial Relief also does not change status, or automatically confer status upon an applicant.
- Nor is it an alternate mechanism to have Humanitarian and Compassionate (H&C) aspects considered, which fall within the responsibility of the IRCC Minister.



Legislation and Case Law

- In 2011, Federal Court of Appeal ("*Agraira*"): favourably narrowed the scope of MR to **national security** and **public safety** considerations
- C-43 (*Faster Removal of Foreign Criminals Act*) of June 2013 sought to enshrine this test as well as remove H&C eligibility for serious grounds
- Many cases have co-existent H&C application with IRCC that pre-date C-43
- Concurrently, as the new act came into force, SCC rendered its decision on *Agraira*
 - affirmed that security and safety elements are "predominant" considerations
 - **but** also expanded the factors Minister must also assess, e.g., IRPA objectives, international obligations, and "personal factors"
- All cases without Ministerial decision, recently decided and those under court scrutiny pre-*Agraira* have had to be re-assessed against *Agraira*
- Early success on interpretation and application of the new *Agraira* decision:
 - 18 decisions were rendered by the Minister, 12 were litigated:
 - 11 concluded in Minister's favour
 - One was discontinued by the applicant

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- A number of court rulings have influenced the nature of processing or interpretation of MR - particularly decisions rendered by the Federal Court (FC), Federal Court of Appeal (FCA) and Supreme Court of Canada (SCC) on the MR *Agraira* case between 2009 and 2013. In addition, the courts overturned many past cases and ordered the Minister to re-determine them, sometimes more than once.
- In 2011, the FCA in *Agraira* favourably narrowed the scope of MR to only national security and public safety considerations.
- In June 2013, Bill C-43 (the *Faster Removal of Foreign Criminals Act*) enshrined the FC's interpretation in law. It also removed H&C eligibility for persons who are inadmissible on grounds that can be overcome by MR (IRCC will still process those MR applicants who had pending H&C requests prior to the new law).
- The SCC *Agraira* ruling, also in June 2013, affirmed that security and safety elements are the "predominant" – but not only – considerations.
- The SCC expanded the factors that the Minister must also consider, such as the objectives of IRPA, Canada's international obligations, and undefined "personal factors" presented by MR applicants that may be relevant to the assessment of national interest. This has resulted in longer and more complex recommendations.
- As a result, all cases without Ministerial decision, 17 cases that had just been decided by the Minister, and all cases under court scrutiny at the time the SCC decision was released, had to be assessed or re-assessed against the SCC decision.
- Thus far, the FC has upheld all of the Minister's post-SCC decisions (a 100% success rate vs. past rates as low as 20%) and strongly endorsed the CBSA's assessments.
 - 12 of the 18 decisions rendered by the Minister were litigated
 - The FC upheld nine (9) of the Minister's decisions, denied leave to appeal in two (2) cases, and one (1) applicant discontinued their litigation in mid-2016



Regulatory Package

- Proposed MR regulations were pre-published in June 2015 in Part I of the *Canada Gazette* - No feedback from stakeholders was received
- The regulations were tabled in Parliament in July 2015, approved by the Minister on February 10, 2017, and came into force on March 10, 2017
- The regulations established procedures for MR applications, including:
 - when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - when a case may be closed (e.g., once a person has obtained PR status or repeatedly failed to respond to the CBSA)
- Benefits include:
 - Greater transparency for applicants and efficiency by avoiding lengthy processing of incomplete or unnecessary applications
 - Enhanced inventory management by enabling file closure where the individual abandons their application or MR is no longer required

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- Proposed MR regulations were pre-published on June 20, 2015 in Part I of the *Canada Gazette*. There had been pre-consultation with stakeholders, some changes had been made in response, and no additional feedback was received after pre-publication.
- The proposed amendments were tabled in both Houses of Parliament as required by subsection 5(2) of the IRPA on July 22, 2015.
- They were approved by the Minister on February 10, 2017, came into force on March 10, 2017, and were published in Part II of the *Canada Gazette* on March 22, 2017.
- The regulations established procedures for applications, including:
 - how to submit an MR request (via a new mandatory application form)
 - when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - when a case may be closed (e.g., if a person is found to be admissible, has obtained PR status, or repeatedly failed to respond to the CBSA)

Benefits of these regulations will include:

- Greater transparency for applicants (via the detailed form and guidelines) and efficiency by avoiding lengthy processing of incomplete or unnecessary applications; and,
- Enhanced inventory management by enabling closure of files where the

individual has abandoned the application or no longer requires MR

Slide 7

TV1 Note that the version that was presented to the PO on March 29, 2017 used the date of publication (March 22, 2017) as the CIF instead of the date of registration.

Tracey Vansickle, 2017-04-04



Implementation of the Regulations

- 321 cases, with average case 7.8 years old:
 - 253 (79 %) security cases
 - 28 (9 %) human rights violations cases
 - 40 (12 %) organized criminality cases
- Aging inventory is a significant litigation challenge (42 cases are legacy pre-CBSA cases): for fairness reasons older files take precedence
- Regulations will enable more effective program management:
 - Approximately 10% of inventory cases can be closed initially
 - For new applicants, forms/guidelines are available on-line with clear eligibility requirements: e.g., provide complete application, must already be found to be inadmissible, must not already have PR status
 - Agency will regularly contact clients with pending cases to determine if they wish to continue or have abandoned their application

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- The pending MR inventory contains 321 cases, with an average age of 7.8 years
- The vast majority of MR applications are related to inadmissibility on security grounds, primarily under IRPA paragraph 19(1)(f) for membership in a terrorist organization:
 - 253 (79 %) security cases
 - 28 (9 %) human rights violations cases
 - 40 (12 %) organized criminality cases
- The aging inventory is a significant litigation challenge (42 cases are legacy pre-CBSA cases). For fairness reasons older files take precedence.
- It is anticipated that the volume of *mandamus* cases (asking the courts to order the Minister to render a decision within a particular time period) will grow
- Regulations will enable more effective program management:
 - Approximately 10% of inventory cases can be closed initially
 - For new applicants, forms/guidelines are available on-line with clear eligibility requirements: e.g., provide complete application, must already be found to be inadmissible, must not already have PR status
 - Agency will regularly contact clients with pending cases to determine if they wish to continue or have abandoned their application



Next Steps

- Before presenting an MR recommendation, the CBSA conducts due diligence by:
 - consulting partners (e.g. CSIS, RCMP, IRCC, DOJ)
 - reviewing refugee and inadmissibility decisions
 - assessing consistency of the applicant's submissions and testimony
 - developing comprehensive organizational histories and backgrounds in cases involving 'membership' through info from open sources and OGDS such as GAC, IRB, CSIS, RCMP
 - assessing and weighing applicant submissions
 - disclosing draft recommendations to applicant for comment and considering further submissions by applicant
- CBSA has provided five cases for Ministerial consideration (1 decision)
- We would welcome discussion on the way forward for transmission of future cases

Annex A: Recourse Mechanisms

| Mechanism | Who can apply | Decision Maker | Outcome |
|--|---|--|--|
| Humanitarian and Compassionate considerations (Permanent Residence) | Any persons who: <ul style="list-style-type: none"> • Are inadmissible • Do not meet requirements of IRPA • Except those inadmissible for security, organized criminality, human and international rights violations | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a permanent resident |
| Pre Removal Risk Assessment (PRRA) | Persons under removal: <ul style="list-style-type: none"> • failed refugee claimants are barred from applying for one year • failed refugee claimants from designated countries of origin are barred for three years | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a protected person and may be eligible for Permanent Residence |
| Limited PRRA | Persons under removal: <ul style="list-style-type: none"> • serious inadmissibility | IRCC Delegate | <ul style="list-style-type: none"> • Person does not get protected person status • Removal is stayed until the risk is no longer applicable |
| Danger Opinion | A Protected Person cannot be removed from Canada to a country where they would be at risk unless a danger opinion has been granted | IRCC Delegate | <ul style="list-style-type: none"> • Protected Person is a danger to the public or the person should not be allowed to remain in Canada on the basis of their danger to the security of Canada • Person is removed from Canada |
| Ministerial Relief | Persons inadmissible for security, organized criminality, senior officials in designated regimes, international sanctions | Minister of PS (non-delegable) | <ul style="list-style-type: none"> • Person is no longer inadmissible on those grounds <p>Note: persons who committed or were complicit in war crimes cannot apply for or be granted relief</p> |
| Stay of Removal | Persons under an enforceable removal order | Federal Court, Minister of PS, PS Delegate | <ul style="list-style-type: none"> • Temporary measure to suspend a removal • It does not change or provide status |

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Annex B: MR Case Details

| 321 Active Ministerial Relief Applications | | | | | |
|--|---|--|-----------------------------------|------------------------------|------------------|
| Applicants in Canada (223) | | | Applicants outside of Canada (98) | | |
| Not subject to removal order | Subject to removal order but not yet enforced | Subject to removal order but not enforceable | Subject to removal order | Not subject to removal order | Removal enforced |
| 79 | 42 | 102 | 6 | 62 | 29 |

| Applicants in Canada (223) | | | | | Applicants outside of Canada (98) | |
|----------------------------|---------------------|-------------------|---------------------|-------------------|-----------------------------------|---------------------|
| Foreign nationals | Convention refugees | Protected persons | Permanent residents | Canadian citizens | Foreign nationals | Convention refugees |
| 77 | 110 | 16 | 18 | 2 | 96 | 2 |

| Ministerial relief | |
|---|--|
| Former State | Current State |
| Person could apply for MR at any time | Person may apply for MR only after a finding of inadmissibility |
| No formalized application process for seeking MR | Requires the use of a designated application form when applying for MR, including mandatory information Greater clarity for applicants concerning information to be provided in support for an MR application |
| No authority to return or close an MR application, requiring all applications to be decided personally by the Minister of Public Safety and Emergency Preparedness whether MR was required or not | MR applications may be closed if the person has been granted permanent resident status, or fails to respond to requests from the CBSA Applications may be returned unprocessed if they do not comply with the new procedures or the applicant has not been found inadmissible This will avoid expending CBSA and Ministerial resources on applications which may not ultimately require MR |

- Previously, regulations did not exist for MR, and IRPA did not require a formal application process or set parameters around this relief mechanism.
- The new regulations, which came into force on March 22, 2017:
 - Limit applications to individuals who have received an inadmissibility decision;
 - Allow an application to be returned if it is incomplete;
 - Allow the CBSA to close an application in specified circumstances (e.g., applicant is subsequently found to be admissible; applicant obtains permanent resident status; application is withdrawn; or, following an attempt by the CBSA to contact an MR applicant, no response is received)
- The new regulations will help the CBSA reduce the backlog of cases; allow the CBSA to efficiently triage new MR applications; and avoid the CBSA processing, and the Minister rendering decisions on, cases which do not require MR. It will benefit applicants by providing an informed and transparent application process and clear guidelines regarding the assessment of relief applications.



Canada Border
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Agence des services
frontaliers du Canada



PROTECTED B

MEMORANDUM


To: Tina Namiesniowski, Executive Vice-President

From: Martin Bolduc, Vice-President, Programs Branch

Subject: Options for adding an index to Ministerial relief recommendations

Further to your direction during the recent discussion of the Ministerial relief (MR) program, please find attached into MR recommendations, in order to facilitate the Minister's review.

Please indicate below which of the three models you prefer. Once you identify your preference, we will use that model moving forward.


Martin Bolduc, Vice-President
Programs Branch

10/3/17

ATTACHMENTS

Page 1 of 1

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Canada

Campbell, Jamison

From: Vansickle, Tracey
Sent: March 31, 2017 11:06 AM
To: Ducharme, Nyiri
Subject: TASKING BF
Attachments: RS_DG table of contents for MR template.doc; RS_EVP table of contents for MR template.doc; EVP index in MR template - Final option mock-up of table of contents.doc; Memo to EVP re mock-up of TOC in MR template (single option).docx

Hi Nyiri,

Please find attached the updated materials for this docket. I'll bring you the hard copy in a minute.

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Ducharme, Nyiri
Sent: March 30, 2017 2:11 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: TASKING BF to DGO 2pm Mar 31 -- FW: Ministerial Relief: streamlined process

Hi Tracey,

Please see below tasking for updates to the docket – bringing it to you now.
Please BF to DO by 12pm March 31.

Thanks,
Nyiri

From: Byrne, Patrick
Sent: March 30, 2017 2:04 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: TASKING BF to DGO 2pm Mar 31 -- FW: Ministerial Relief: streamlined process

Hi Richard,

I just picked up the docket from VPO and will deliver it to Nyiri within the next few minutes. I'm sorry for the tight turnaround especially because it seems the docket was sat on for some time.

Tasking: please update the docket as per Peter's notes. Routing should once again be to the EVP. CCM 885.

Please BF to DGO by 2pm March 31.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Mousseau, Pauline

Sent: March 30, 2017 1:41 PM

To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>

Subject: FW: Ministerial Relief: streamlined process

Hello please update the docket as instructed by note from Peter. Outline option 1.

Prepare docket to go to EVP (RS)

You can use CCM 885.

BF: April 3rd 9am.

Thank you,
Pauline

From: Mousseau, Pauline

Sent: March 30, 2017 1:40 PM

To: Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>

Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>

Subject: RE: Ministerial Relief: streamlined process

Hello,
We will have the option to you early next week (docket).

I will keep you posted.

Thank you,
Pauline

From: Maisonneuve, Mélanie

Sent: March 30, 2017 1:31 PM

To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>

Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Subject: Ministerial Relief: streamlined process

Bonjour,

Could you please provide an update as to the above-noted topic? When should the EVP receive an updated proposal?
Should we set-up a briefing?

Merci beaucoup!

Mélanie Maisonneuve

Chief of Staff | Chef de cabinet

Executive Vice President's Office | Bureau de la Première vice-présidente

Canada Border Services Agency | Agence des services frontaliers du Canada

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President's Office Time Stamp / Timbre dateur du bureau du président



Canada Border Services Agency
Agence des services frontaliers du Canada

PROTECTED B / PROTÉGÉ B

CBSA/ASFC-17-885

ROUTING SLIP/BORDEREAU D'ACHEMINEMENT

| | | ACTION REQUIRED/ MESURE REQUISE | |
|--|--------------------------------------|------------------------------------|-------------------------------------|
| Name and Telephone Number/ Nom et numéro de téléphone | Initials and date/ Initiales et date | Action | Information |
| Executive Vice-President/ Première vice-présidente Tina Namiesniowski | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Vice-President/ Vice-président Martin Bolduc | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Associate Vice-President/ Vice-président délégué Peter Hill | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Director General/ Directrice générale Jennifer Lutfallah | | | |
| Executive Director/ Directrice exécutive Lesley Soper | | | |
| Subject/Objet : Adding an index to MR recommendations Action/Mesure : For information / Pour information Further to your direction during the recent discussion of the Ministerial relief program, please find enclosed a mock-up incorporating a table of contents into an MR recommendation in order to facilitate the Minister's review. Consultations: _____ | | | |



PROTECTED B

MEMORANDUM

To: Tina Namiesniowski, Executive Vice-President

From: Martin Bolduc, Vice-President, Programs Branch

Subject: Adding an index to Ministerial relief recommendations

Further to your direction given during the recent discussion of the Ministerial relief (MR) program, please find attached a mock-up of an MR recommendation which incorporates a table of contents to facilitate the Minister's review.

Moving forward, all MR recommendations submitted for Ministerial approval will use this model.

Martin Bolduc, Vice -President
Programs Branch

ATTACHMENT

1. Mock-up of the MR template with a table of contents

Hanton, Ashley

From: Vansickle, Tracey
Sent: March 30, 2017 12:32 PM
To: Lutfallah, Jennifer; StMarseille, Richard
Subject: RE: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

There are only 321 cases in the inventory and it could affect all of them.

From: Lutfallah, Jennifer
Sent: March 30, 2017 12:31 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

NEED RESPONSE IN 2 MINUTES

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Bolduc, Martin
Sent: March 30, 2017 12:28 PM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Subject: Tr: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Do we know how many out of the 359 + cases we have would meet this timeline

MB
Envoyé de mon smartphone BlackBerry 10 sur le réseau Rogers.

De: Ossowski, John <John.Ossowski@cbsa-asfc.gc.ca>
Envoyé: jeudi 30 mars 2017 12:20
À: Bolduc, Martin; Namiesniowski, Tina
Cc: Garbers, Raquel
Objet: FW: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Fyi – "could affect hundreds of cases"??

From: PSPMediaCentre / CentredesmediasPSP (PS/SP) [<mailto:ps.pspmediacentre-centredesmediaspsp.sp@canada.ca>]
Sent: March 30, 2017 11:58 AM
To: Today's News / Actualités (PS/SP)
Subject: RT: CBC News reported on the Federal Court of Canada's decision that Public Safety Minister Ralph Goodale must make a decision on a politically sensitive immigration case. - 2017-03-30 - 11:45 ET

Rough Transcript

Station: CBC News
Time/heure: 11:45 ET
Date: 2017-03-30

Summary: CBC News reported on the Federal Court of Canada's decision that **Public Safety Minister Ralph Goodale** must make a decision on a politically sensitive immigration case.

>> Suhanna: The federal court of Canada is forcing the **Minister of Public Safety** to start making more timely decisions on politically sensitive immigration cases. The court's chief justice says the **Minister** is obliged to act no matter how busy he is. Alison Crawford is in Ottawa with more.

>> Reporter: It's quite a withering judgment and starts off with federal court Chief Justice Paul Crampton saying -- now the case in question concerns an application for ministerial relief. People make these direct appeals for a second hearing to the **Minister of Public Safety** after they have been told they can't stay in Canada due to a criminal background or past membership in a bad organization. The thing is over the years, ministers have largely chosen not to make decisions on these sensitive cases. In the case before the court here, an Iranian man was denied permanent residence on the grounds that he was once a terrorist member in a group in Iran. He waited four more years for a decision from the **Public Safety Minister**. According to the ruling, **Minister Ralph Goodale** argued he can take as much time as he likes because he's busy. Chief Justice Crampton didn't buy that argument. He ordered **Goodale** to make a decision within the next few months and made it very clear that four years is the upper limit of reasonable delay. Immigration lawyers are not surprisingly welcoming the decision and say it could affect hundreds of cases currently before the minister.

>> Lawyer Lorne Waldman: Getting a decision that is as broad as this that sort of says four years is enough time for the **Minister** to render a decision is quite unusual because the court tries to make it very specific. If you read this decision, the court is sending a pretty clear message that **Minister**, if you have to make a decision, make it within four years.

>> Reporter: As for **Goodale**, a spokesperson for his department says the ruling is under review and the department is considering whether the whole process could be improved. Alison Crawford, CBC News, Ottawa.

Due to the nature of closed captioning, grammatical and editorial errors may be found within the attached transcript. Étant donné la nature du sous-titrage, il peut y avoir des erreurs grammaticales et de rédaction dans la transcription ci-attachée.

Questions? Please contact us at ps.pspmediacentre-centredesmediaspsp.sp@canada.ca.
Questions? Veuillez communiquer avec nous au ps.pspmediacentre-centredesmediaspsp.sp@canada.ca.

Sent to : !INTERNAL; !INTERNAL 2; CBSA Breaking News

cic.gc.ca



Citizenship and Immigration Canada



Faster Removal of Foreign Criminals Act
Performance Reporting Framework

January 2014



Citizenship and
Immigration Canada

Citoyenneté et
Immigration Canada

Canada

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1.0 Introduction and Purpose

This report presents the reporting framework for the *Faster Removal of Foreign Criminals Act* ("the Act"), which received Royal Assent on June 19, 2013¹. This framework was developed to provide guidance about the information and data collection that will be used to measure the ongoing performance of the initiative for internal Departmental reporting purposes. Additionally, it will ensure that data will be available for evaluation purposes. The framework was developed based on what is currently known and available and as the initiative is implemented, and in the years following, adjustments to the framework may be required to ensure it reflects any necessary changes.

The report is organized into four sections. Section 2.0 provides a profile of the initiative, outlining the thirteen components of the Act and clarifying the roles and responsibilities of each of the departments that are involved in the initiative. Section 3.0 outlines the information that is recommended for reporting on an ongoing basis, and each department's responsibilities for data collection. Section 4.0 provides details about how the initiative will be evaluated, including information around the timing, responsibilities and resources.

2.0 Profile

As affirmed in the 2011 Speech from the Throne, the Government of Canada is committed to addressing threats to our national security and protecting the integrity of our immigration system. The changes introduced in the Act are consistent with the Government's no-safe-haven policy² and will also support a more effective removals process and thereby enhance the safety and security of Canada (See Table 1 for a summary of the changes).

Generally, the Act amends the provisions in the *Immigration and Refugee Protection Act* (IRPA) in order to enhance the safety and security of Canadians, strengthen the integrity of the immigration program, and facilitate entry to support Canadian interests, which links to Citizenship and Immigration Canada's (CIC) strategic outcome #4 (*Managed migration that promotes Canadian interests and protects the health, safety, and security of Canadians*). The Canada Border Services Agency (CBSA) and Public Safety (PS) are also involved in this initiative (links to Departmental strategic outcomes are shown in Annex A).

The Act is the result of a multiyear review of the IRPA inadmissibility provisions ("Admissibility Review") conducted from 2010-2012 by CIC in close collaboration with partners including: PS; CBSA; the Royal Canadian Mounted Police (RCMP); the Canada Security and Intelligence Service (CSIS); Correctional Services of Canada (CSC); the Immigration and Refugee Board of Canada (IRB); the Department of Foreign Affairs, Trade and Development Canada (DFATD); and the Department of Justice.

The Admissibility Review sought to examine and address a number of recurrent issues relating to IRPA inadmissibility provisions that have been identified since the IRPA was introduced in 2002. It also sought to ensure that IRPA continues to provide decision-makers with the tools necessary to maintain the integrity of Canada's immigration system. The Admissibility Review considered global events, new international partnerships, evolving jurisprudence, legislative gaps, and the need to find efficiencies.

¹ The rationale for developing a reporting framework, instead of a traditional logic model and Performance Measurement Strategy, was due to the fact that C-43 is not a program, with a set of activities and expected outcomes, but a series of regulatory changes that have expected results.

² This policy, included within Canada's War Crimes Act, means that persons involved or complicit in crimes against humanity or war crimes are not welcome in Canada.

Canada's Minister of Citizenship and Immigration (Minister of CIC) and the Minister of Public Safety and Emergency Preparedness (Minister of PS) share administrative responsibility for the various provisions introduced in the Act. While the Minister of CIC has responsibility for most provisions, the Minister of PS is responsible for those that relate to enforcement and inadmissibility on grounds of security, organized criminality, or violating human or international rights.

The financial impacts of the Act are expected to be minimal, with the exception of potential legal costs for the new authority for refusal on public policy grounds. Additionally, a low impact on processing is expected.

Table 1: Summary of Changes

| Act Measures | Detailed Components |
|--|--|
| Enhance the safety and security of Canadians by: | <ol style="list-style-type: none"> 1. Giving the Minister of Citizenship and Immigration the authority, in exceptional cases, to deny temporary resident status to foreign nationals whose entry into Canada would raise public policy concerns (New Authority for Refusal); 2. Further limiting access to the Immigration Appeal Division (IAD) for serious criminals; 3. Prohibiting access to humanitarian and compassionate considerations (H&C) for those inadmissible on the grounds of security, human or international human rights violations, or organized criminality; 4. Limiting Ministerial relief considerations to national security and public safety; 5. Barring temporary entry to individuals with immediate family members inadmissible on the grounds of security, human or international human rights violations, or organized criminality; and, 6. Increasing the consequences for misrepresentation from a two to a five year period of inadmissibility and barring application for permanent residence during this period. |
| Strengthen the integrity and administration of the immigration program by: | <ol style="list-style-type: none"> 7. Establishing a clear statutory obligation on persons who make an application for protection, temporary or permanent resident status to appear for an immigration examination with CIC or the CBSA and for foreign nationals to appear for an immigration security screening interview with CSIS, when requested by a CBSA or CIC officer ; 8. Introducing prescribed mandatory minimum conditions for individuals who have been reported or ordered removed on security grounds by the Immigration Division or who are subject to a security certificate on security grounds;³ 9. Adding an authority to allow a permanent resident to apply for voluntarily renunciation of his or her permanent resident status; and, 10. Expanding authority to create regulations to impose conditions on individuals and others involved in an application (e.g. employers or educational institutions), verify compliance with conditions and undertakings, and set consequences when they are breached. |
| Facilitate entry for Canadian interests by: | <ol style="list-style-type: none"> 11. Narrowing the breadth of the security provision related to espionage to focus on activities carried out against Canada or that are contrary to the interests of Canada; 12. Easing temporary entry for individuals with an inadmissible family member except where |

³ This component is not included in the current Performance Reporting Framework, as Public Safety plans to measure it under a separate initiative.

| Act Measures | Detailed Components |
|--------------|--|
| | <p>the family member is inadmissible for security, human or international rights violations, or organized criminality; and,</p> <p>13. Affirming the Minister of Public Safety's ability to grant relief on the Minister's own initiative.</p> |

3.0 Performance Measurement for the Faster Removal of Foreign Criminals Act

3.1 Data Collection

This section presents the strategy for gathering data on an ongoing basis to monitor the performance of the Act and to assess results through evaluation. The following paragraphs provide an explanation of the Performance Reporting Framework (PRF), the IT systems used for data collection, methods and frequency of data collection and analysis.

The PRF identifies several "components" of the Act and lists the recommended performance indicators, data sources, data collection methods, frequency of collection, responsibility for collection and reporting, and targets for each component (Annex B). These elements are subject to change as they may need to be adjusted based on the availability and relevance of the data collected for measurement.

Data collection will occur on an ongoing basis using, for the most part, IT systems that are currently in place to support the Government of Canada's immigration program:

Global Case Management System (GCMS): is CIC's single, integrated and worldwide system used internally to process applications for citizenship and immigration services. GCMS was first introduced in 2004, to process applications for Canadian citizenship and proof of citizenship. In 2010, a second release was implemented to extend case processing capabilities overseas. Deployment of GCMS to all in-Canada offices began in July 2011 and since February 2012 all CIC offices in Canada and overseas are processing in GCMS. Development work is currently underway in GCMS to accommodate CBSA enforcement lines of business, in anticipation of future utilization of GCMS by CBSA personnel.

Field Operations Support System (FOSS): is the main immigration database for CIC and it contains information related to temporary and permanent residents who have entered Canada. FOSS is used by CIC and CBSA personnel in the field and at National Headquarters (NHQ). Traditionally this has been an in-Canada system but as the transition to GCMS nears completion, FOSS will be used less often. For the purposes of this PMF, the enforcement features of FOSS are most relevant.

Litigation Information Management System (LIMS): contains information concerning citizenship and immigration related litigation. The information relates to finalized and/or pending litigation cases. LIMS contains personal information concerning the applicant/respondent such as the name, country of citizenship, FOSS ID number as well as a general description of the nature and status of the litigation.

National Case Management System (NCMS): is a web-based electronic case tracking system, delivered over CIC's intranet using a centralized database. NCMS is used by CIC and CBSA personnel in the field and at NHQ. It delivers critical case-tracking support to enforcement personnel across many areas, including removals, refugee processing, detentions, hearings and

war crimes. Its functions include case tracking, bring forward, scheduling, workload management, file registry, and forms and letters modules for all of CBSA's and CIC's major enforcement business lines (except port of entry examinations).

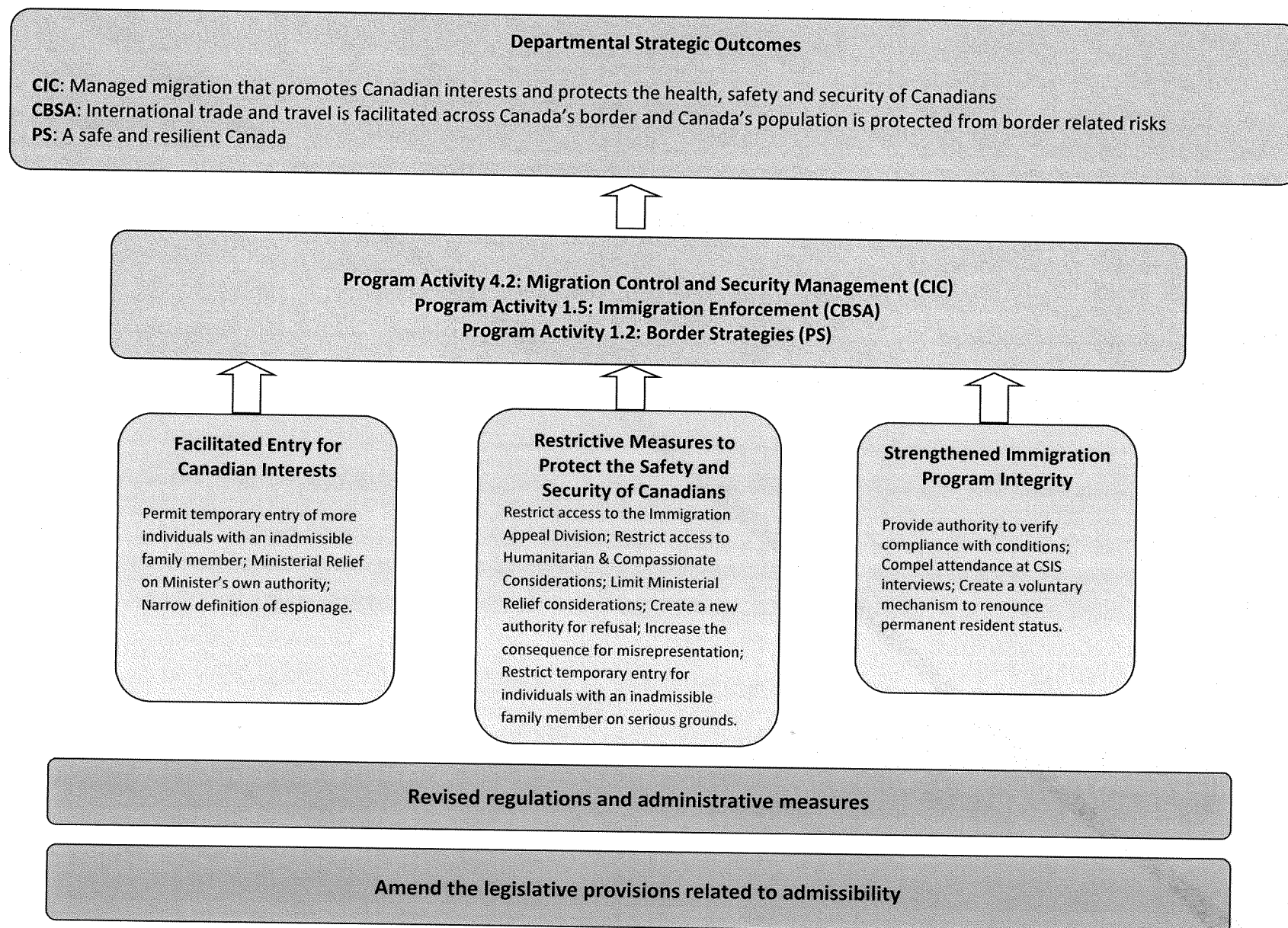
3.2 Reporting

Each of the departments involved in the initiative will be responsible for collecting the relevant data, as identified in the PRF. On a basis that remains to be determined, these partners will provide available data to Admissibility Branch, CIC. Admissibility Branch will compile and share the data on a regular basis, through a report that will be produced on an annual basis. Each department will be responsible for ensuring that its own internal departmental reporting requirements are met (e.g., for the Departmental Performance Report). Several CIC branches – including Admissibility, Operational Management and Coordination, Research & Evaluation, Operations Performance Management, Case Management, and Communications – will need to work collectively to ensure that appropriate information is available for reporting purposes.

4.0 Evaluation Strategy

As per the current 5-Year Departmental Evaluation Plan (2014-15 to 2018-19), CIC will evaluate the initiatives of the Act as part of a larger evaluation of the Temporary Resident Biometrics Project and Immigration Information Sharing. This is scheduled to begin late in 2016-17 and be completed late in 2017/18. The evaluation will be conducted in accordance with the Treasury Board Secretariat's *Policy on Evaluation* and the purpose of the evaluation will be to assess issues of relevance and performance of these initiatives.

Annex A: Link to Departmental Program Alignment Architectures



Reporting Framework

Faster Removal of Foreign Criminals

January 2014

Annex B: Performance Measurement Framework: Components to be Measured

| Theme Area | Components | | Indicator | | Data Source | Collection Frequency | Responsibility for Data Collection (Data Owner) | Responsibility for Analysis | Target / Expectation | Baseline |
|--|------------|--|-----------|--|--------------|----------------------|---|-----------------------------|---|-------------------|
| Enhance the Safety and Security of Canadians | 1. | Create a new authority for refusal (negative discretion) | 1.1 | # of instances that the authority is used, and public policy reasons on which the decisions are based | GCMS FOSS | Annually | CIC (OPMB) | CIC (AB) | Expect to be used only up to five cases each year. | 0 (new authority) |
| | | | 1.2 | # of challenges that are upheld | LIMS | Annually | CIC (Litigation Management, Case Management Branch) | CIC (AB) | N/A | 0 (new authority) |
| | | | 1.3 | # of declared foreign nationals found inadmissible based on non-compliance with the Act for seeking to enter, or remain in, the country while subject to a declaration | FOSS | Annually | CIC (Litigation Management, Case Management Branch) | CIC (AB) | Five or less cases per year expected, based on expectation that authority will only be used up to five cases per year and not all declared FNs will seek to enter Canada. | 0 (new authority) |
| | 2. | Restrict access to the Immigration Appeal Division | 2.1 | # of removal order appeals filed at the IAD. | IRB | Annually | IRB | IRB | Expect to see a decrease in the number of appeals filed at the IRB. | TBD |
| | | | 2.2 | # of cases with a refusal code of criminality or serious criminality that were dismissed at IAD due to lack of jurisdiction | IRB | Annually | IRB | IRB | Expect overall number of family class sponsorship applications accepted by the IRB expected to decline | N/A |
| | | | 2.3 | Internal GOC stakeholder views on the impact of this provision on the IAD (e.g., IRB, CIC) | Interviews | Evaluation | CIC (R&E) | CIC (R&E) | N/A | N/A |
| | 3. | Restrict access to Humanitarian and Compassionate considerations | 3.1 | # and % of individuals inadmissible under section 34, 35, or 37 that apply for H&C | GCMS | Annually | CIC (Refugees Operation Division, OMC) | CIC (AB) | There will not be any new cases – the only cases going forward are those already in the inventory; however, it may not be known if an individual is inadmissible when they apply for H&C. | |

Reporting Framework

Faster Removal of Foreign Criminals

January 2014

| Theme Area | Components | | Indicator | | Data Source | Collection Frequency | Responsibility for Data Collection (Data Owner) | Responsibility for Analysis | Target / Expectation | Baseline |
|--|------------|---|-----------|--|-----------------------|----------------------|---|-----------------------------|---|---|
| | 4. | Limit Ministerial relief considerations | 4.1 | Volume of litigation related to the Minister's interpretation/application of "national interest" | Operational Reporting | Annually | CBSA | CBSA | The number of cases litigated will likely increase for the first five years; subsequently, this provision will create a less litigious environment than pre-C-43 volumes. | # and court level (FC, FCA, SCC) of cases received prior to CIF C-43. |
| Enhance the Safety and Security of Canadians (continued) | 5. | Formalize the Ministerial relief process | 5.1 | #/% of new applications accepted for processing | Operational Reporting | Annually | CBSA | CBSA | Expect that there will be fewer cases accepted as not all will meet the criteria set out under C-43. | # of cases received prior to implementation of C-43 regs (when all applications were accepted). |
| | | | 5.2 | #/% of new applications returned without processing due to non-compliance with eligibility criteria | Operational Reporting | Annually | CBSA | CBSA | | 0 (new authority) |
| | | | 5.3 | #/% of all cases in inventory withdrawn or deemed abandoned. | Operational Reporting | Annually | CBSA | CBSA | Up to 5-7% of existing inventory by 2014-2015. Expect subsequent years to be much lower. | 0 (new authority) |
| | 6. | Deny temporary entry to foreign nationals with a non-accompanying family member | 6.1 | # of PPTRVs and TRPs issued on the basis of A42(1) only where client (family member of inadmissible person) is travelling on their own (e.g., not accompanying a spouse who was issued a PPTRV previously) | Operational Reporting | Annually | CIC (OPMB) | CIC (AB) | Expect to see an increase in the # issued | 0 |
| | | | 6.2 | # of applications refused or applicants denied entry by any means based on A42(1) | FOSS/GCMS | Annually | CIC/CBSA | CIC (AB) | Expect to see refusals based on new provision. | TBD |

Reporting Framework
 Faster Removal of Foreign Criminals

January 2014

| Theme Area | Components | | Indicator | | Data Source | Collection Frequency | Responsibility for Data Collection (Data Owner) | Responsibility for Analysis | Target / Expectation | Baseline |
|---|------------|--|-----------|---|-----------------------|----------------------|---|-----------------------------|--|--|
| <i>Strengthen Immigration Program Integrity</i> | 7. | Increase the severity of the consequences for misrepresentation | 7.1 | # of 5-year exclusion orders issued by the Immigration Division of IRB | FOSS | Annually | CIC/CBSA | CIC (AB) | The number should rise initially and then decrease over the longer-term. | Current # |
| | | | 7.2 | Stakeholder views (visa officers, POEs) view on the impact of this provision on admissibility decisions | Interviews | Evaluation | CIC (R&E) | CIC (R&E) | Expectation is that there would be less misrepresentation (want to understand unanticipated impacts of this provision). | N/A |
| | 8. | Create a legislative basis for voluntary renunciation of permanent resident status | 8.1 | # of individuals that apply to renounce their PR status (administratively vs. under the regulation) | GCMS | As needed | CIC (OPMB) | CIC (AB) | Expectation is that there would be similar volumes of clients as current volumes of those who wish to relinquish PR status | 0 (new provision) |
| | | | 8.2 | Informal consultations with key visa offices and POEs on the impact of the provision | Interviews | As needed | CIC (IR & R&E) | CIC (AB) | Expectation is that the provision would create an easier process for applicants and officers. | |
| <i>Facilitate Entry for Canadian Interests</i> | 9. | Narrow the espionage provision to focus on acts against Canada and its interests | 9.1 | # and % of applications refused or A44 reports issued based on new provision compared to old provision | GCMS/FOSS | Evaluation | CIC/CBSA | CBSA | Expectation is that there will be fewer refusals/reports | # of applications refused based on previous (wider) 34(1)(a) provision |
| | | | 9.2 | Internal GOC stakeholder views on the impact of this provision on facilitating entry | Interviews | Evaluation | CIC (R&E) | CIC (R&E) | N/A | N/A |
| | 10 | Facilitate foreign nationals with an inadmissible family member | 10.1 | # of TRPs and PPTRVs issued for A42(1) (inadmissible family member) | GCMS | Annually | CIC (OPMB) | CIC (AB) | Expectation is that the number of TRPs issued will be reduced | TBD |
| | | | 10.2 | Examples of cases where entry was granted as a result of the provision | Informal consultation | As needed | CIC | CIC (AB) | N/A | N/A |
| | | | 10.3 | Internal GOC stakeholder views on the impact of this provision on facilitating entry | Interviews | Evaluation | CIC (R&E) | CIC (R&E) | N/A | N/A |
| | | | | | | | | | | |

Hanton, Ashley

From: Vansickle, Tracey
Sent: March 24, 2017 06:00 PM
To: Lutfallah, Jennifer
Cc: Byrne, Patrick; Henderson, Lana; Ducharme, Nyiri; Richard, Jean-Francois; StMarseille, Richard
Subject: Updated Ministerial Relief Deck for PO Briefing on March 28, 2017
Attachments: RS DG deck for 28mar2017 MR briefing to PO 24mar2017.docx; Min_deck_MR FINAL Nov 25, 2016 with speaking points UPDATED 24mar2017.pptx; RS DG SCAN deck for 28mar2017 MR briefing to PO 24mar2017.pdf

Importance: High

Hi Jennifer,

As requested, in preparation for the March 28, 2017 briefing to the President's Office on Ministerial relief, please find attached the electronic version of an update of the November 26, 2016 deck for the Minister with current statistics and talking points incorporated.

Patrick asked that the hard copy docket be left on his desk if you still had your door closed.

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237



Canada Border Services Agency
Agence des services frontaliers du Canada

PROTECTED B / PROTÉGÉ B

CBSA/ASFC-17-

ROUTING SLIP/BORDEREAU D'ACHEMINEMENT

| | | ACTION REQUIRED/ MESURE REQUISE | |
|--|---|------------------------------------|-------------------------------------|
| Name and Telephone Number/ Nom et numéro de téléphone | Initials and date/ Initiales et date | Action | Information |
| Director General/ Directrice générale Jennifer Lutfallah | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Executive Director/ Directrice exécutive Lesley Soper | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Acting Director/ Directeur p. i. Richard St Marseille Tel. /Tél. : 954-3923 | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manager / Gestionnaire Tracey Vansickle Tel./Tél. :613-957-0744 | | | |
| Subject/Objet : Updated Ministerial Relief Deck for PO Briefing Action/Mesure : For Information / Pour information As requested, in preparation for the March 28, 2017 briefing to the President's Office on Ministerial relief, please find attached an updated version of the November 26, 2016 deck for the Minister with current statistics and talking points incorporated. | | | |

2017-08-11



Canada Border
Services Agency

Agence des services
frontaliers du Canada



Ministerial Relief


Briefing to the Minister

November 28, 2016
Updated March 3, 2017



PROTECTION • SERVICE • INTEGRITY






Purpose

- To provide you with an overview of the Ministerial Relief (MR) authority
- To brief you on the proposed Ministerial Relief Regulations
- To discuss associated procedural enhancements

PROTECTION • SERVICE • INTEGRITY

2

2017-08-11




Inadmissibility Framework

IRPA provides a *principles-based* framework for inadmissibility:

- Protect safety and security of Canada and Canadians
- Meet international treaty obligations

| <i>PS Minister</i> | | <i>IRCC Minister</i> | |
|--------------------|--|----------------------|-------------------------------------|
| Section 34 | Security | Section 36 | Serious criminality and criminality |
| Section 35 | Human or international rights violations | Section 38 | Health |
| Section 37 | Organized criminality | Section 39 | Finance |
| | | Section 40 | Misrepresentation |
| | | Section 40.1 | Cessation |
| | | Section 41 | Non-compliance |
| | | Section 42 | Inadmissible family member |

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3



What is Ministerial Relief?

- Ministerial relief (MR) is a recourse of last resort to overcome the most serious immigration inadmissibilities: security; human or international rights violations; and, organized criminality
- Authority can only be exercised by the Minister of Public Safety and Emergency Preparedness (PS Minister)
- To grant relief, the PS Minister must be satisfied that relief is not against the national interest - onus placed on the applicant to demonstrate that relief is not against the national interest
- When granted, MR clears the path for a foreign national to apply to Immigration, Refugees and Citizenship Canada (IRCC) to regularize their status in Canada (e.g., permanent residence)
- MR decisions are reviewable by the Federal Court (FC)
 - Most negative decisions are litigated

PROTECTION • SERVICE • INTEGRITY
4

2017-08-11

Ministerial Relief is not...

- Applicable to individuals directly involved or complicit in **war crimes or crimes against humanity**; criminal inadmissibility; or any other inadmissibility grounds that fall under the purview of the Minister IRCC
- A reassessment of the inadmissibility finding of the Immigration and Refugee Board
- A mechanism to delay removal or any other process (although applicants can separately request a deferral of removal to CBSA or the Federal Court)
- A mechanism to change or provide status
- An alternate recourse mechanism to assess humanitarian and compassionate (H&C) considerations (H&C is a Minister IRCC role)

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5

Legislation and Case Law

- In 2011, Federal Court of Appeal ("*Agraira*"): favourably narrowed the scope of MR to **national security** and **public safety** considerations
- C-43 (*Faster Removal of Foreign Criminals Act*) of June 2013 sought to enshrine this test as well as remove H&C eligibility for serious grounds
- Many cases have co-existent H&C application with IRCC that pre-date C-43
- Concurrently, as the new act came into force, SCC rendered its decision on *Agraira*
 - affirmed that security and safety elements are "predominant" considerations
 - **but** also expanded the factors Minister must also assess, e.g., IRPA objectives, international obligations, and "personal factors"
- All cases without Ministerial decision, recently decided and those under court scrutiny pre-*Agraira* have had to be re-assessed against *Agraira*
- Early success on interpretation and application of the new *Agraira* decision:
 - 18 decisions were rendered by the Minister, 12 were litigated:
 - 11 concluded in Minister's favour
 - One was discontinued by the applicant

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2017-08-11

Regulatory Package

- Proposed MR regulations were pre-published in June 2015 in Part I of the *Canada Gazette* - No feedback from stakeholders was received
- The regulations were tabled in Parliament in July 2015, approved by the Minister on February 10, 2017, and came into force on March 22, 2016
- The regulations established procedures for MR applications, including:
 - when an application may be submitted (e.g., once a final inadmissibility determination has been made)
 - when a case may be closed (e.g., once a person has obtained PR status or repeatedly failed to respond to the CBSA)
- Benefits include:
 - Greater transparency for applicants and efficiency by avoiding lengthy processing of incomplete or unnecessary applications
 - Enhanced inventory management by enabling file closure where the individual abandons their application or MR is no longer required

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7

Implementation of the Regulations

- 321 cases, with average case 7.8 years old:
 - 253 (79 %) security cases
 - 28 (9 %) human rights violations cases
 - 40 (12 %) organized criminality cases
- Aging inventory is a significant litigation challenge (42 cases are legacy pre-CBSA cases): for fairness reasons older files take precedence
- Regulations will enable more effective program management:
 - Approximately 10% of inventory cases can be closed initially
 - For new applicants, forms/guidelines are available on-line with clear eligibility requirements: e.g., provide complete application, must already be found to be inadmissible, must not already have PR status
 - Agency will regularly contact clients with pending cases to determine if they wish to continue or have abandoned their application

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2017-08-11

Next Steps

- Before presenting an MR recommendation, the CBSA conducts due diligence by:
 - consulting partners (e.g. CSIS, RCMP, IRCC, DOJ)
 - reviewing refugee and inadmissibility decisions
 - assessing consistency of the applicant's submissions and testimony
 - developing comprehensive organizational histories and backgrounds in cases involving 'membership' through info from open sources and OGDs such as GAC, IRB, CSIS, RCMP
 - assessing and weighing applicant submissions
 - disclosing draft recommendations to applicant for comment and considering further submissions by applicant
- CBSA has provided five cases for Ministerial consideration (1 decision)
- We would welcome discussion on the way forward for transmission of future cases

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9

Annex A: Recourse Mechanisms

| Mechanism | Who can apply | Decision Maker | Outcome |
|--|---|--|--|
| Humanitarian and Compassionate considerations (Permanent Residence) | Any persons who: <ul style="list-style-type: none"> • Are inadmissible • Do not meet requirements of IRPA • Except those inadmissible for security, organized criminality, human and international rights violations | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a permanent resident |
| Pre Removal Risk Assessment (PRRA) | Persons under removal: <ul style="list-style-type: none"> • failed refugee claimants are barred from applying for one year • failed refugee claimants from designated countries of origin are barred for three years | IRCC Delegate | <ul style="list-style-type: none"> • Person becomes a protected person and may be eligible for Permanent Residence |
| Limited PRRA | Persons under removal: <ul style="list-style-type: none"> • serious inadmissibility | IRCC Delegate | <ul style="list-style-type: none"> • Person does not get protected person status • Removal is stayed until the risk is no longer applicable |
| Danger Opinion | A Protected Person cannot be removed from Canada to a country where they would be at risk unless a danger opinion has been granted | IRCC Delegate | <ul style="list-style-type: none"> • Protected Person is a danger to the public or the person should not be allowed to remain in Canada on the basis of their danger to the security of Canada • Person is removed from Canada |
| Ministerial Relief | Persons inadmissible for: security, organized criminality, senior officials in designated regimes, international sanctions | Minister of PS (non-delegable) | <ul style="list-style-type: none"> • Person is no longer inadmissible on those grounds Note: persons who committed or were complicit in war crimes cannot apply for or be granted relief |
| Stay of Removal | Persons under an enforceable removal order | Federal Court, Minister of PS, PS Delegate | <ul style="list-style-type: none"> • Temporary measure to suspend a removal • It does not change or provide status |

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2017-08-11

Annex B: MR Case Details


| 321 Active Ministerial Relief Applications | | | | | |
|--|---|--|-----------------------------------|------------------------------|------------------|
| Applicants in Canada (223) | | | Applicants outside of Canada (98) | | |
| Not subject to removal order | Subject to removal order but not yet enforced | Subject to removal order but not enforceable | Subject to removal order | Not subject to removal order | Removal enforced |
| 79 | 42 | 102 | 6 | 62 | 29 |

| Applicants in Canada (221) | | | | | Applicants outside of Canada (97) | |
|----------------------------|---------------------|-------------------|---------------------|-------------------|-----------------------------------|---------------------|
| Foreign nationals | Convention refugees | Protected persons | Permanent residents | Canadian citizens | Foreign nationals | Convention refugees |
| 77 | 110 | 16 | 18 | 2 | 96 | 2 |

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| <div>  </div> | |
|---|--|
| Annex D: Summary of Regulation Changes | |
| Ministerial relief | |
| Former State | Current State |
| Person could apply for MR at any time | Person may apply for MR only after a finding of inadmissibility |
| No formalized application process for seeking MR | Requires the use of a designated application form when applying for MR, including mandatory information |
| No authority to return or close an MR application, requiring all applications to be decided personally by the Minister of Public Safety and Emergency Preparedness whether MR was required or not | <p>Greater clarity for applicants concerning information to be provided in support for an MR application</p> <p>MR applications may be closed if the person has been granted permanent resident status, or fails to respond to requests from the CBSA</p> <p>Applications may be returned unprocessed if they do not comply with the new procedures or the applicant has not been found inadmissible</p> <p>This will avoid expending CBSA and Ministerial resources on applications which may not ultimately require MR</p> |
| <div> PROTECTION • SERVICE • INTEGRITY 13 </div> | |



Canada Border Services Agency
Agence des services frontaliers du Canada

PROTECTED B / PROTÉGÉ B

CBSA/ASFC-17-

ROUTING SLIP/BORDEREAU D'ACHEMINEMENT

| | | ACTION REQUIRED/ MESURE REQUISE | |
|---|---|------------------------------------|-------------------------------------|
| Name and Telephone Number/ Nom et numéro de téléphone | Initials and date/ Initiales et date | Action | Information |
| Director General/ Directrice générale Jennifer Lutfallah | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Executive Director/ Directrice exécutive Lesley Soper | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Acting Director/ Directeur p. i. Richard St Marseille Tel. /Tél. : 954-3923 | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manager / Gestionnaire Tracey Vansickle Tel./Tél. : 613-957-0744 | 2017-03-24 | | |
| <p>Subject/Objet : Updated Ministerial Relief Deck for PO Briefing Action/Mesure : For Information / Pour information</p> <p>As requested, in preparation for the March 28, 2017 briefing to the President's Office on Ministerial relief, please find attached an updated version of the November 26, 2016 deck for the Minister with current statistics and talking points incorporated.</p> | | | |

Hanton, Ashley

From: Ouellet, Fabrice
Sent: March 30, 2017 10:23 AM
To: Vansickle, Tracey
Cc: Giolti, Patrizia; Ngo, Sarah; Calma, Gordan
Subject: RE: CBSA Daily Media Summary / Revue de presse quotidienne ASFC 2017-03-30
Attachments: For EVP approval: MINISTERIAL RELIEF CASE

Thanks Tracey! I see it is with EVP now.

From: Vansickle, Tracey
Sent: March 30, 2017 10:08 AM
To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>
Cc: Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: CBSA Daily Media Summary / Revue de presse quotidienne ASFC 2017-03-30

Hi Fabrice,

Yes, the MO asked for information yesterday via Patrizia, so we provided the information below.

Thanks,

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
 Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: March 30, 2017 9:01 AM
To: Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>
Cc: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: FW: MINISTERIAL RELIEF CASE - TAMEH

Hi Patrizia,

Please note below.

Tks
 Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Bolduc, Martin
Sent: March 30, 2017 8:57 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Hill, PeterD(CBSA) <Peter.Hill@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Cloutier, Jacques <Jacques.Cloutier@cbsa-asfc.gc.ca>
Cc: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; LeFrank, Andrew <Andrew.LeFrank@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: RE: MINISTERIAL RELIEF CASE - TAMEH

Yes, also make sure that PO is cc'd

Martin Bolduc

Vice-président, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Martin.Bolduc@cbsa-asfc.gc.ca tél: 613-948-4445

Vice President, Programs Branch
Canada Border Services Agency / Government of Canada
Martin.Bolduc@cbsa-asfc.gc.ca tel: 613-948-4445

De : Lutfallah, Jennifer
Envoyé : 30 mars, 2017 08:31
À : Bolduc, Martin <Martin.Bolduc@cbsa-asfc.gc.ca>; Hill, PeterD(CBSA) <Peter.Hill@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Cloutier, Jacques <Jacques.Cloutier@cbsa-asfc.gc.ca>
Cc : Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; LeFrank, Andrew <Andrew.LeFrank@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Objet : MINISTERIAL RELIEF CASE - TAMEH

Martin,
Please see case synopsis below. MO has requested case info via Comms. Please indicate whether you are ok with us sharing this email.

Morteza MOMENZADEH-TAMEH v MPSEP, 2017 FC 288, Federal Court judgment

PROTECTED BY SOLICITOR-CLIENT PRIVILEGE (Litigation and Settlement References)

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
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Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Ouellet, Fabrice
Sent: March 30, 2017 8:29 AM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Cc: Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>
Subject: FW: CBSA Daily Media Summary / Revue de presse quotidienne ASFC 2017-03-30

Tracey, Calma,

This article did not seem to make today's clips for some reason.

<http://www.cbc.ca/news/politics/immigration-public-safety-minister-decisions-court-1.4046314>

Did MO ask for details on this case? If you have a BN on this, or anything else, I could use to draft media lines.

Thanks.

From: PSPMediaCentre / CentredesmediasPSP (PS/SP) [<mailto:ps.pspmediacentre-centredesmediaspsp.sp@canada.ca>]
Sent: March 30, 2017 7:08 AM
To: PSPMediaCentre / CentredesmediasPSP (PS/SP) <ps.pspmediacentre-centredesmediaspsp.sp@canada.ca>
Subject: CBSA Daily Media Summary / Revue de presse quotidienne ASFC 2017-03-30

Daily Media Summary / Revue de presse quotidienne
Canada Border Services Agency / Agence des services frontaliers du Canada
March 30, 2017 / le 30 mars, 2017

The Daily Media Summary can also be accessed through [Newsdesk](#) / La Revue de presse quotidienne peut également être accédée via [InfoMédia](#)

TOP STORIES / ACTUALITÉS

ORGANIZATIONAL ISSUES / ENJEUX ORGANISATIONNELS

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BORDER ISSUES / ENJEUX FRONTALIERS

EDITORIALS & OPINIONS / ÉDITORIAUX ET LETTRES D'OPINIONS

OTHER / AUTRES

TOP STORIES / ACTUALITÉS

NIL

ORGANIZATIONAL ISSUES / ENJEUX ORGANISATIONNELS

NIL

SECURITY & LAW ENFORCEMENT / SÉCURITÉ ET EXÉCUTION DE LA LOI

Police following up on report of radicalized Montreal airport employees

Federal and provincial elected officials sought to reassure the public Wednesday after a report suggested some workers at Montreal's airport may have been radicalized. Quebec's public security minister said Montreal police, the Quebec provincial force and the RCMP were working together to monitor the situation. "The first thing I did was to assure myself that police services were following the situation closely, and that was confirmed to me," Martin Coiteux said in Quebec City. "Following closely means taking all means to assure the public's safety." Prime Minister Justin Trudeau promised his government would "cut no corners" when it comes to addressing threats and ensuring the safety of Canadian travellers. "When issues come to light we deal with them in a responsible way, we look into what happened and how we can ensure that Canadians remain safe in air travel," he told reporters in Winnipeg. (...) Transport Minister Marc Garneau said that in order to enter the restricted areas of an airport, employees must undergo an extensive vetting process including background checks and ongoing daily verifications. "Transport Canada works closely with partners such as the Royal Canadian Mounted Police (RCMP), the Canadian Air Transport Security Authority, Canada Border Services Agency, airport authorities and local law enforcement agencies to maintain the highest security standards at Canadian airports," he said in a statement. [Kingston Whig-Standard](#), B2 (Moncton Times & Transcript); [Postmedia News Network](#) (Montreal Gazette, A10) (2017-03-30); [CBC News](#) (2017-03-29)

MONTRÉAL-TRUDEAU EST ASSEZ SÉCURITAIRE, ESTIME LE FÉDÉRAL

Décriées par des sénateurs, des douaniers et certains corps policiers, les mesures de sécurité à l'aéroport Montréal-Trudeau ont été jugées satisfaisantes par le gouvernement fédéral hier, malgré les révélations de l'émission J.e. sur les craintes de radicalisation d'employés. « Notre système est très robuste et se compare aux meilleurs au monde », a dit le ministre des Transports Marc Garneau en entrevue à LCN. Selon lui, rien ne justifie pour l'instant un renforcement de la sécurité. L'émission J.E. a diffusé mardi un reportage montrant que des employés « radicalisés » de l'aéroport Montréal-Trudeau ont eu accès au tarmac. [Agence QMI](#) (Journal de Montreal, 12)

La Cour fédérale rejette la demande de suspension

La Cour fédérale a rejeté hier la demande de suspension du renvoi de la Mauritanienne Lalla Mohammed Ahmed, établie à Montréal depuis 2013, et qui doit être expulsée ce soir dans son pays d'origine, même si son fils de 3 ans est citoyen canadien. « Cette décision est une violation claire du droit international et de la Charte des droits et libertés », proteste son avocate Myriam Roy L'Écuyer, qui s'est dite bouleversée par ce dénouement. La jeune femme avait fui son pays

natal à la suite d'un mariage non autorisé par la famille. Selon son avocate, la mère et l'enfant risquent d'être mis au ban de la société à leur retour au pays. Le juge Peter Annis de la Cour fédérale a jugé que Lalla Mohammed Ahmed n'avait pas établi qu'elle souffrirait d'un « préjudice irréparable » si elle était renvoyée en Mauritanie. Le juge rappelle dans sa décision que la Section de la protection des réfugiés (SPR) avait déterminé en 2014 qu'elle ne courait aucun risque à sa vie et à sa sécurité. [La Presse](#), 14, 5

PROGRAMS & POLICIES / PROGRAM ET POLITIQUES

« Penser différemment » les services policiers

Les gouvernements municipaux et provinciaux doivent sortir des sentiers battus s'ils veulent juguler la hausse des coûts de leurs services policiers. Le recours à des entreprises de sécurité privées pour exécuter certaines tâches incombant aujourd'hui à des policiers, comme la gestion de la circulation ou encore le transport de détenus, pourrait entraîner des économies de près de 40 %, estime l'ancien ministre conservateur Christian Paradis. (...) M. Paradis a d'ailleurs souligné que des entreprises de sécurité privée assuraient déjà la sécurité dans les aéroports du pays, sous la supervision de l'Administration canadienne de la sûreté du transport aérien (ACSTA), depuis quelques années. GardaWorld s'occupe aussi du transport d'individus interceptés par l'Agence des services frontaliers du Canada. [La Presse](#), 4, 3

Safe Third Country Agreement to stay, pledges immigration minister

As the debate over the future of asylum seekers in Canada continues, Immigration Minister Ahmed Hussen has once again rejected calls to suspend the Safe Third Country Agreement, a pact which considers asylum-seekers to be safe in both Canada and the U.S. "[The United Nations High Commissioner for Refugees] supports our position and they've said very clearly the U.S. domestic asylum system provides due process both in Canada and the U.S.," said Hussen while at a citizenship ceremony in Vancouver. "There's absolutely no need to tinker with the Safe Third Country Agreement." The RCMP has arrested nearly half as many asylum seekers already this year as they did in all of 2016. And, advocates for those asylum seekers warn the agreement gives people incentive to cross irregularly, potentially putting themselves at harm. [CBC News](#)

Centres d'injection supervisée: Philpott demande aux sénateurs de faire vite

Elle témoignait mercredi soir devant le comité permanent des affaires juridiques et constitutionnelles. «Chaque jour, il y a des surdoses et des décès associés aux opioïdes, c'est très important qu'on ait une réponse complète à cette crise, a-t-elle fait valoir à sa sortie du comité. Le projet de loi C-37 est très important pour améliorer l'accès aux centres d'injection supervisée.» La ministre Philpott a défendu son projet de loi qui allège le processus d'approbation des centres d'injection supervisée mis en place par les conservateurs. Le projet de loi C-37 réduit le nombre de critères requis par le gouvernement en les faisant passer de 26 à cinq, soit les cinq critères énoncés par la Cour suprême. Il donnerait également aux agents des services frontaliers le pouvoir d'ouvrir le courrier international jugé suspect pesant moins de 30 grammes. [Le Soleil](#) (Le Quotidien, La Tribune, La Voix de l'Est) (2017-03-30); [Le Devoir](#) (2017-03-29)

Chance for quick softwood deal

B.C.'s softwood trade envoy says there's a slight opportunity to quickly negotiate a new lumber agreement between Canada and the United States - but if a deal can't be reached by the summer or fall, it could mean a lengthy fight. David Emerson said Wednesday he sensed a chance at a deal but also saw continued turbulence in the administration of President Donald Trump and strong protectionist sentiments in the U.S. Congress after visiting Washington, D.C., last week. [Victoria Times-Colonist](#), B1

Ottawa open to 'more, more, more' with China

As the United States and Australia raise alarms on trade and extradition with China, Canada's new ambassador to Beijing said Wednesday Ottawa is eager to do "even more" than already suggested by Prime Minister Justin Trudeau to improve formal relations. In an interview with the Star, John McCallum, the former Markham MP and cabinet minister, signalled that Canada is charting a very different, more open and liberalized course with Beijing. (...) McCallum said Trudeau wants to increase two-way trade in several sectors immediately, even before exploratory talks on free trade get underway in earnest. Preliminary meetings were held in February and the next round is set to take place in Canada, likely next month. McCallum said the Canadian government can "walk and chew gum at the same time" - talking trade while promoting human rights with Beijing. He said Trudeau has "made it clear that promoting and protecting human rights remains an integral part of our foreign policy and it remains a total priority," and suggested any agreement - whether on trade or extradition - is a long way off and would take account of those concerns. McCallum's declarations stood in stark contrast to recent signs of a cooling relationship in Australia, and the conflicting and alternating positions taken by the new administration in Washington under U.S. President Donald Trump. [Toronto Star](#), A4; [iPolitics](#)

BORDER ISSUES / ENJEUX FRONTALIERS

'We have capacity to deal with asylum seekers,' says immigration minister

As hundreds of asylum seekers continue to slip across the American border into B.C., the federal immigration minister is promising that Canada has the resources to handle all of the new arrivals. Ahmed Hussen was on hand to watch 30 new Canadians take the oath of citizenship Wednesday at the Immigrant Services Society of B.C.'s Welcome Centre in east Vancouver. The freshly minted citizens hailed from 16 countries and included several former refugee claimants. "The number of asylum seekers who are coming into our country is a little bit higher than previous years, but it fluctuates from year to year, and we have the capacity to deal with those fluctuations," Hussen told reporters after the ceremony.

Canadian Press (Vancouver Province, Vancouver Sun) (2017-03-29)

Deux fois plus de réfugiés arrivés à pied en C.-B. qu'en 2016

Le nombre de demandeurs d'asile qui se présentent à la frontière de la Colombie-Britannique depuis les États-Unis a doublé depuis le début de l'année comparativement à 2016. Ce sont très souvent des organismes à but non lucratif, à bout de souffle, qui les prennent en charge dans leurs premiers pas au Canada. Depuis sa demeure frontalière à la ville de Surrey, l'Américain Dan Gustafson est aux premières loges. Il voit défiler de plus en plus de sans-papiers incognito devant ses fenêtres : « Le champ est toujours libre ici. Un simple ruisseau sépare le Canada des États-Unis. Les demandeurs d'asile filent ensuite vers Vancouver », raconte-t-il. Radio-Canada (2017-03-29)

Americans blocked at border up 31%

While many Canadians are concerned about having problems at the U.S. border, it is Americans who are having difficulties visiting Canada, with the number turned away rising by 31 per cent last year, La Presse has learned. According to federal documents, 30,233 Americans were turned away when attempting to enter Canada in 2016. In 2015, 23,052 people were turned back, representing an increase of 31 per cent in one year. The numbers are all the more striking when compared to 2014, when just 7,509 American citizens were refused entry to Canada. The Canada Border Services Agency (CBSA), which is responsible for border security, would not provide reasons for the increase. "The CBSA is not in a position to speculate," said Nicholas Dorion, a spokesperson for the agency. "The number of people turned away at the border fluctuates from year to year." Toronto Star, A10

Des fouilles d'appareils électroniques contestées à la frontière américaine

Les fouilles d'appareils électroniques pratiquées par les douaniers américains inquiètent les organisations de défense des droits de l'homme du pays, qui multiplient les recours pour forcer le département de la Sécurité intérieure à justifier ses pratiques. Ces fouilles, qui ont notamment ciblé des ressortissants canadiens ayant cherché à se rendre aux États-Unis au cours des derniers mois, sont critiquées notamment dans une nouvelle poursuite engagée par le Knight First Amendment Institute de l'Université Columbia. (...) Dans certains cas, des voyageurs récalcitrants ont même été contraints, par la force, de remettre leur téléphone. Un homme de New York qui s'est rendu à deux reprises au Canada sur une courte période de temps début janvier a notamment été immobilisé par trois agents après avoir refusé à son second retour en sol américain de donner son téléphone. La Presse, 15

Canada will ensure our border is 'respected'

More than 90% of Canadians want changes to government's current approach in dealing with asylum seekers, according to an Ipsos poll released Wednesday. The poll, conducted for Global News, showed just 44% of people on the Prairies agree that Canada's border security is strong enough to protect our sovereignty and our safety. In Winnipeg Wednesday to deliver a child care funding announcement, Prime Minister Justin Trudeau said he's aware Canadians want more done. Sun Media Corporation (Winnipeg Sun, A4)

EDITORIALS & OPINIONS / ÉDITORIAUX ET LETTRES D'OPINIONS

Border, airport security need attention

An opinion piece states, "The security of our country is at risk because the Liberals are more interested in playing politics than doing what's right. This much is clear after a number of news stories emerged over the past few days concerning border and airport security issues. First, a program on the French-language TVA station alleged Montreal's Trudeau International Airport has been infiltrated by radicalized individuals who support ISIS. As Postmedia's Candice Malcolm reported: "The investigation found that one employee with airport security clearance reportedly shared Islamic State propaganda videos, including graphic imagery of torture and murder, through social media accounts." Another employee reportedly had direct access to runways and aircrafts." Sun Media Corporation (Toronto Sun, A16, Ottawa Sun, Winnipeg Sun, Calgary Sun, Edmonton Sun)

More border resources for migrants is not a solution

An opinion piece states, "Desperate asylum seekers are crossing the Canadian border, and did so in the dead of winter. This has precipitated an emotionally charged, political debate. Simplistic solutions abound, notably loud calls to deploy

more resources at Canada's land border. But there are serious limits to what throwing money at the border can accomplish. Migrants have been crossing illegally in full view of Canadian authorities, even after being warned they would be arrested. And enhanced enforcement at the border will hardly deter those intent on crossing. So what can we do? First, Canadians need to realize immigration is actually a national security policy. We need to grow immigrant levels, but in a way that balances fairness, equity, safety and prosperity. (...) How many refugees Canada should accept is controversial. Canada could, and should, take in more refugees if its approach were more systematic in spreading the burden across the country. The means, however, are not up for debate." Globe and Mail, A13

Fix this flawed law

An editorial states, "The Trudeau government is on its way to fixing some of the worst changes that the Harper government brought in to Canada's citizenship laws. Inexplicably, though, it is hedging on repairing one of the law's most glaring flaws. This is a measure that allows an immigration official to revoke a person's citizenship without any possibility of a hearing or court process to appeal the decision. Not surprisingly, the number of people who have been stripped of their citizenship has increased dramatically since the law took effect in May 2015. Since then, in less than two years, 272 people have lost their Canadian citizenship. By comparison, over the previous 17 years a total of 167 people had their citizenship revoked under the old system." Toronto Star, A14

OTHER / AUTRE

Border Runners: Why I wanted to see the journey first-hand

The first thing that struck me about the young woman I randomly met outside work last month is that she was wearing no socks in the bitter cold. We struck up a conversation, and she told me a harrowing story. Just 21 years old, the Eritrean national left her mother in Saudi Arabia, buying a one way ticket to Washington D.C. with money scraped together from friends and family. Her solo journey took her to New York, where she says she heard from others about the so called Underground Refugee Railroad. "Get yourself to Plattsburgh, New York," they told her, "and you can walk across the border into Canada."

21. The same age as my son. Listening to her, my mind raced, "could I send my son off like that? Could he make such a journey?" I can't imagine the desperation this young woman's mother must have felt, packing her off alone to an unknown future; one that must have, in her eyes, been better than life in Saudi Arabia. (Google what happens to those who don't have Saudi citizenship, and then Google Eritrea to get a sense of the dilemma.) Macleans (2017-03-29)

Prepared by the Public Safety Portfolio Media Centre / Préparé par le Centre des médias du portefeuille Sécurité publique. We can be reached at / Vous pouvez nous contacter à: PS.PSPMediaCentre-CentredesmediasPSP.SP@Canada.ca

SENT TO: CBSA DMS 1; CBSA DMS 2; CBSA DMS 3; CBSA DMS 4; CBSA DMS 5

Hanton, Ashley

From: Giolti, Patrizia
Sent: March 30, 2017 10:08 AM
To: Namiesniowski, Tina
Cc: Ossowski, John; CBSA-ASFC-Media Relations; Maisonneuve, Mélanie; Garbers, Raquel; Brunatti, Andrew; Mackenzie, Joey; Easton, Erika-Kirsten; Lutfallah, Jennifer; Bolduc, Martin; Blanchard, NathalieX; StMarseille, Richard; Raider, Marc; Ouellet, Fabrice; Walker, Donald
Subject: For EVP approval: MINISTERIAL RELIEF CASE

Good morning, the Minister's Office has asked for information on this file. We have received below chronology. Please advise if any concerns moving these to MO.

Thank-you, Patrizia

***by 1145 please and thanks**

Hanton, Ashley

From: StMarseille, Richard
Sent: March 30, 2017 12:44 PM
To: Lutfallah, Jennifer
Cc: Byrne, Patrick; Henderson, Lana; Vansickle, Tracey; Ducharme, Nyiri
Subject: URGENT - For Approval - Ministerial Relief Case - Media Lines
Attachments: HQ - Media Lines - Ministerial Relief - Tameh - 2017-03-30 -MRU comments.docx

Importance: High

Hi Jennifer,

MR media lines are attached for your approval.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

Hanton, Ashley

From: Ouellet, Fabrice
Sent: March 30, 2017 02:30 PM
To: Byrne, Patrick
Cc: StMarseille, Richard; Vansickle, Tracey; Ngo, Sarah; Lacroix, Anne-Marie; Giolti, Patrizia
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Attachments: PS QPN template - September 2016 - Bilingual.doc

Importance: High

Hi Patrick,

I believe that draft media lines on the above-mentioned case are with the DG for approval. Is it realistic we can get her approval in the next 15-20 minutes. As per these instructions, we are to provide them by 3 pm, and I still need to ensure my DG's (Erika) approval.

I understand and appreciate how much DGO is being solicited today. Thanks for your help.

Fabrice

From: Marier, Ruth
Sent: March 30, 2017 2:07 PM
To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Bouchard, Cindy <Cindy.Bouchard@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; Boyd, Colin <Colin.Boyd@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Greenough, Nicole <Nicole.Greenough@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>; Walker, Donald <Donald.Walker@cbsa-asfc.gc.ca>
Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Importance: High

Hanton, Ashley

From: Vansickle, Tracey
Sent: March 30, 2017 02:33 PM
To: Ouellet, Fabrice
Cc: Ngo, Sarah; Calma, Gordan
Subject: RE: Media Call: Tameh Decision

Perfect. Thanks.

Oh, I forgot to mention that there is unlikely to be anything that we can say specific to the applicant's case. While the Court information is in the public domain, we never speak about litigation details publicly as it sets a very dangerous precedent

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Ouellet, Fabrice
Sent: March 30, 2017 2:28 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision

Will do – thanks Tracey. I will copy you.

From: Vansickle, Tracey
Sent: March 30, 2017 2:20 PM
To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision

Hi Fabrice,

Richard St. Marseille (our director) suggested that it would be a good idea for you to contact our DG's Strategic Advisor, Patrick Byrne (952-9081), because Jennifer is swamped and he can ensure that it's drawn to her attention asap. We've had very clear instructions that we are not to provide anything outside the directorate before DG approval has been given, if those documents will be provided to anyone above the Director level.

Sorry...

From: Ouellet, Fabrice
Sent: March 30, 2017 2:10 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision

Hi Tracey,

We are getting pressure to send the lines to Parl Affairs. Any chance you can share what was submitted to the DG?
 Fabrice

From: Vansickle, Tracey
Sent: March 30, 2017 1:08 PM
To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision

Hi Fabrice,

Just to keep you updated, the media lines are with our DG; hopefully we'll have approval shortly. She's multi-tasking because she's got questions on this case coming from all directions.

From: Vansickle, Tracey
Sent: March 30, 2017 11:53 AM
To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision

Hi Fabrice,

We'll provide comments shortly on the ML and are seeking approval on additional media lines (which were mostly previously approved and shouldn't be an issue) and hope to get them to you shortly.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
 Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Ouellet, Fabrice
Sent: March 30, 2017 11:43 AM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: Media Call: Tameh Decision
Importance: High

Tracey,

I have started a ML document. PS is asking if there is anything we can say about the specifics of this case.

Can you help with messaging under the header?

Thanks,

Fabrice

From: Ouellet, Fabrice

Sent: March 30, 2017 11:08 AM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>

Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>

Subject: FW: Media Call: Tameh Decision

Hi,

This came back, and we will need to prepare media lines. Is there anything we can say about this case and why the delay?

I will start the media lines and include overall lines on MR and the latest reg update aimed at clarifying the process and reducing the backlog.

Fabrice

From: Giolti, Patrizia

Sent: March 30, 2017 11:02 AM

To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>

Cc: Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; CBSA-ASFC-Media Relations <Media.Relations@cbsa-asfc.gc.ca>

Subject: Media Call: Tameh Decision

Ok We will need media lines....to address the questions..thanks!

From: Gowing, Andrew (PS/SP) [<mailto:andrew.gowing@canada.ca>]

Sent: March 29, 2017 3:04 PM

To: CBSA-ASFC-Media Relations <Media.Relations@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolto@cbsa-asfc.gc.ca>;

Dorion, Nicholas <Nicholas.Dorion@cbsa-asfc.gc.ca>

Cc: Martel, Karine: PS / SP <karine.martel@canada.ca>; Duval, Jean Paul (PS/SP) <jeanpaul.duval@canada.ca>

Subject: FW: Media Call: Tameh Decision

Hi CBSA Colleagues

Our legal team tells us that this Court decision may actually be a CBSA lead. Do you have any lines on this case? Also, the reporter is curious how many applications are before the Minister for "relief" against findings that someone is inadmissible to Canada. MO is hoping to respond by end of day, so please let us know as soon as possible.

I've also attached the original request for even more context.

Thanks

-Andrew

From: Gowing, Andrew (PS/SP)
Sent: Wednesday, March 29, 2017 12:54 PM
To: Sugunasiri, Shalin (PS/SP)
Cc: Duval, Jean Paul (PS/SP); Martel, Karine (PS/SP)
Subject: Media Call: Tameh Decision

Hi Shalin

Please see below, a question that came into MO from media on the Tameh Federal Court Decision. Generally in these instances we use a line similar to "We are reviewing the details of the decision in order to determine the most appropriate next steps", but MO is wondering if there is any additional information or context that can be shared?

Question: The story is about Federal Court case IMM-2418-16, concerning Morteza Momenzadeh Tameh and his application for permanent residency in 1994, was found inadmissible and then appealed and so on until now. The previous Public Safety Minister was ordered - eight years ago - to make a decision on ministerial relief. The court strenuously disagreed with the minister's plea that he should not be subject to any decision-making timelines because he's too busy and issued a mandamus ordering him to make a decision on Tameh's case. More importantly though, like the Jordan decision at SCC last summer, this decision sets timelines for the resolution of immigration cases I would like to get a sense, going forward, how both of your departments intend to handle the new deadline of essentially four years to make decisions.

Any guidance you can provide would be appreciated.

Thanks
-Andrew

Andrew Gowing
Senior Advisor & Spokesperson | Conseiller principal et porte-parole
Communications Directorate | Direction générale des communications
Public Safety Canada | Sécurité publique Canada
Telephone | Téléphone : (613) 991-1689
Blackberry : (613) 808-5414
Email | Courriel : Andrew.Gowing@Canada.ca

Hanton, Ashley

From: Byrne, Patrick
Sent: March 30, 2017 03:07 PM
To: Ouellet, Fabrice
Cc: StMarseille, Richard; Vansickle, Tracey; Ngo, Sarah; Lacroix, Anne-Marie; Giolti, Patrizia
Subject: Media Lines: Ministerial Relief (DG approved)
Attachments: HQ - Media Lines - Ministerial Relief - Tameh - 2017-03-30 -MRU comment....docx

Hi Fabrice,

Attached media lines have been approved by DG, Jennifer Lutfallah.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Ouellet, Fabrice
Sent: March 30, 2017 2:30 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Importance: High

Hi Patrick,

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I understand and appreciate how much DGO is being solicited today. Thanks for your help.

Fabrice

From: Marier, Ruth
Sent: March 30, 2017 2:07 PM
To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Bouchard,

Cindy <Cindy.Bouchard@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; Boyd, Colin <Colin.Boyd@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Greenough, Nicole <Nicole.Greenough@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>; Walker, Donald <Donald.Walker@cbsa-asfc.gc.ca>

Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Le français suit

Good afternoon,

A Question Period Note (QPN) has been requested on Ministerial Relief. Please see the media article referenced below.

Lead: Programs. Please submit your VP-approved QPN (English only) to PAU-UAP@cbsa-asfc.gc.ca **by 9 a.m. tomorrow, Friday, March 31**, using the attached template, and ensure that your QPN is unclassified.

Communications will forward generic media lines or previous communications material **by 3 pm**.

Please confirm receipt **as soon as possible** and advise Parliamentary Affairs if it should redirect this request.

*(*Note: Classified information requires separate template; any dollar amounts to be reported requires approval by the Chief Financial Officer within the allotted timeframe.)*

Thank you,
Parliamentary Affairs Unit

Bonjour,

La rédaction d'une note pour la période de questions (NPQ) est demandée relativement à l'article paru dans les médias au sujet de dispense ministérielle. Veuillez voir l'article ci-dessous.

Responsable : Programmes. Nous vous demandons de transmettre la NPQ approuvée par la/le v.-p. (version anglaise seulement) à PAU-UAP@cbsa-asfc.gc.ca **avant 9 h, demain, vendredi le 31 mars**. Veuillez utiliser le modèle fourni et vous assurer que l'information dans la NPQ est non classifiée.

Les Communications transmettront des infocapsules de nature générale ou d'autres documents pertinents **par 15h00**.

Nous vous demandons d'accuser réception de la tâche attribuée, **le plus tôt possible**, et d'informer l'Unité des affaires parlementaires si ce dossier ne relève pas de votre responsabilité et doit être redirigé.

*(*Nota : Il faut utiliser un modèle différent si l'information est classifiée; toute somme d'argent à divulguer doit être vérifiée et approuvée par le dirigeant principal des finances dans les délais impartis.)*

Merci

Unité des affaires parlementaires

NATIONAL POST

National Post.com

LEGAL POST, Words: 536

published: 2017-03-28

received: 2017-03-28 11:40 (EST)

National Post.com

LEGAL POST, Words: 536

Ministers must respond to requests for relief within reasonable time frame, court rules

by: Julius Melnitzer

The Federal Court of Canada has ruled that cabinet ministers are not entitled to wait "as many years as they see fit" before responding to valid requests from the public.

"Ministers of the Crown are typically very busy people," Chief Justice Paul Crampton acknowledged in a recent immigration decision involving Morteza Tameh. "But they are not so busy that they can take as many years as they see fit to respond to requests made pursuant to validly enacted legislation, by persons seeking determinations that are important to them. At some point, they will have an obligation to provide a response."

Yet the public might take small comfort from the court's ruling that a four-year delay in responding to a request for ministerial relief from an order of inadmissibility for permanent residence, is "at the outer limits of what is reasonable."

As it turned out, Tameh waited a total of eight years before applying to the Federal Court for an order requiring the Minister of Public Safety and Emergency Preparedness to rule on his request to become a permanent resident of Canada.

Tameh, previously granted refugee status, applied in 1994 to become a permanent resident.

In 2001, an immigration counsellor turned him down because of his previous involvement with a terrorist organization in his home country of Iran. The counsellor, however, recommended that the minister exercise his authority to grant relief from the order of inadmissibility.

Six years later, Stockwell Day, then federal Minister of Public Safety, denied the request for relief. In 2008, the Federal Court overturned Day's decision and sent the matter back for reconsideration.

Four years later, the minister had still not reconsidered. At that point, Tameh requested that the redetermination be delayed pending an important ruling from the Supreme Court of Canada that touched on the points in issue in his case. The Supreme Court released its decision in June 2013.

Almost four more years passed without a response from the minister. Tameh went back to the Federal Court with a request for an order requiring the minister to act. The minister's eventual response was dismissive.

"The minister takes the position that, because of his many duties and responsibilities, he should not be subject to any timeline whatsoever in rendering his determinations in respect of such requests," Crampton noted in his reasons before summarily dismissing the argument.

"I disagree," Crampton wrote. "Although the minister must have considerable latitude in prioritizing his many duties, he must nevertheless respond to requests made for ministerial relief, within a reasonable period of time."

What was reasonable, Crampton added, was related to the facts at hand. Here, the four-year delay between 2008 and 2012 while Tameh's application was being processed was "at the outer limit of what is reasonable in that regard." The additional 45-month delay after the SCC decision, however, was not reasonable.

"Stated differently," Crampton wrote, "I find that the minister has not provided a satisfactory justification for that additional delay."

At Crampton's urging, the government agreed to an order mandating a procedure that would have the minister render a decision within 315 days of the court's order.

The upshot is that Tameh will have to wait for almost another year before he knows his fate.

For the online article [click here](#).



Canada Border
Services Agency

Agence des services
frontalières du Canada



Ministerial Relief Application

Media Lines - Morteza Momenzadeh Tameh

Date: March 30, 2017

For use by CBSA spokespersons only

Issue:

On March 16, 2017, the Federal Court ordered the Minister of Public Safety and Emergency preparedness to make a decision on the application for Ministerial relief of Morteza Momenzadeh Tameh, who was found inadmissible to Canada in 2001 for membership in the Mujahedin-e-Kalq in Iran, then on the Government's terrorist entity list. Mr. Tameh had filed for Ministerial relief at the time. The treatment of Mr. Tameh's application has been delayed due to multiple factors such as the court setting aside the Minister's previous decision, numerous additional submissions by the requester, administrative file reassignments, and changes in jurisprudence.

Media Lines

General

- Canada takes our refugee protection obligations and our obligation to protect the safety and security of Canadians seriously. Balancing these considerations is a top priority for the Government of Canada.
- Individuals seeking Ministerial relief under subsection 42.1(1) of the *Immigration and Refugee Protection Act* are inadmissible to Canada on some of the most serious grounds.
- Assessments of Ministerial relief applications are complex, requiring a rigorous case-by-case assessment, including a review of immigration and enforcement files, applicant submissions, and consultation with other government departments. This is necessary to ensure that consideration is given to all pertinent factors to ensure that relief is granted only where it is not contrary to the national interest to do so.
- Ministerial relief decisions are subject to review by the courts. The Ministerial relief program has been subject to shifting jurisprudence and historically, has experienced high litigation rates. While this has hampered efforts to reduce the backlog, settled case law, as well as regulatory amendments introduced in March 2017, are anticipated to improve the management of the inventory of cases.

Mr. Momenzadeh-Tameh

PROTECTION • SERVICE • INTEGRITY

Canada

- As is indicated by the Court records that are within the public domain, Mr. Momenzadeh-Tameh and the Minister reached an agreement with respect to the timing regarding a Ministerial Relief decision on his case.
- Due to privacy legislation, no specific details of Mr. Momenzadeh-Tameh's case can be discussed.

Facts about Ministerial Relief and Processing Times

- The CBSA reviews the application and provides a recommendation to the Minister.
- The draft recommendation is shared with the applicant, who may submit further evidence to the Minister.
- These assessments are complex and require an in-depth, case-by-case analysis and therefore may be subject to lengthy processing times.
- Only the Minister of Public Safety has the authority to grant relief. This authority cannot be delegated.
- A Minister's decision on a relief application may be reviewed by the Federal Court.
- There are currently 321 requests for Ministerial relief in the inventory.

Ministerial Relief New Regulations

- The new regulations standardize the process for applying for Ministerial Relief, which will result in a more efficient, consistent and transparent application process.
- These regulations will avoid the applicant, the CBSA and the Minister focussing resources on processing applications which may not ultimately require Ministerial Relief.
- The new regulations do not affect the Minister's decision-making process or how different factors are considered by the Minister.
- The new regulations were published on March 22, 2017.

For Background Only – Case History

| | | |
|---|---|--|
| Prepared by: Fabrice Ouellet Senior Communications Advisor 613-941-2378 | In consultation with: Tracey Vansickle, Manager, Ministerial Relief Programs Branch | Approved by: Jennifer Lutfallah DG, Enforcement and Intelligence Programs Erika-Kirsten Easton DG, Communications |
|---|---|--|

Hanton, Ashley

From: Vansickle, Tracey
Sent: March 30, 2017 03:14 PM
To: Byrne, Patrick; Ouellet, Fabrice
Cc: StMarseille, Richard; Ngo, Sarah; Lacroix, Anne-Marie; Giolti, Patrizia
Subject: RE: Media Lines: Ministerial Relief / BF: 9 am Friday, Mar 31

Hi all,

Please note that, although the media refers to the applicant as "Mr. Tameh", our records and the court use his full surname "Momenzadeh-Tameh".

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: Byrne, Patrick
Sent: March 30, 2017 3:07 PM
To: Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Hi Fabrice,

Attached media lines have been approved by DG, Jennifer Lutfallah.

Thank you,

Patrick Byrne
Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Ouellet, Fabrice
Sent: March 30, 2017 2:30 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ngo, Sarah <Sarah.Ngo@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Giolti, Patrizia

<Patrizia.Giolti@cbsa-asfc.gc.ca>

Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Hi Patrick,

I believe that draft media lines on the above-mentioned case are with the DG for approval. Is it realistic we can get her approval in the next 15-20 minutes. As per these instructions, we are to provide them by 3 pm, and I still need to ensure my DG's (Erika) approval.

I understand and appreciate how much DGO is being solicited today. Thanks for your help.

Fabrice

From: Marier, Ruth

Sent: March 30, 2017 2:07 PM

To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Bouchard, Cindy <Cindy.Bouchard@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; Boyd, Colin <Colin.Boyd@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Greenough, Nicole <Nicole.Greenough@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>; Walker, Donald <Donald.Walker@cbsa-asfc.gc.ca>

Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Le français suit

Good afternoon,

A Question Period Note (QPN) has been requested on Ministerial Relief. Please see the media article referenced below.

Hanton, Ashley

From: Ott, Lydia
Sent: March 30, 2017 03:21 PM
To: Vansickle, Tracey; Henry, David
Subject:

Hi Tracey and David,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege

From: Fobes.Caroline
Sent: March 30, 2017 11:32 AM
To: Smith.Heidi <Heidi.Smith@cic.gc.ca>; Laurencelle.Alain <Alain.Laurencelle@cic.gc.ca>
Subject: RE:

Hanton, Ashley

From: Ducharme, Nyiri
Sent: March 30, 2017 03:34 PM
To: Vansickle, Tracey
Subject: Comms final bullets - Ministerial Relief, Momenzadeh-Tameh mandamus FC decision / BF: 9 am Friday, Mar 31

FYI

From: Byrne, Patrick
Sent: March 30, 2017 3:33 PM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

FYI – below you will find the bullets that Comms put forward.

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Patrice, France
Sent: March 30, 2017 3:27 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

For you.

From: Giolti, Patrizia

Sent: March 30, 2017 3:21 PM
To: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>; Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Bouchard, Cindy <Cindy.Bouchard@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>

asfc.gc.ca; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; Boyd, Colin <Colin.Boyd@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Greenough, Nicole <Nicole.Greenough@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>; Walker, Donald <Donald.Walker@cbsa-asfc.gc.ca>; Ouellet, Fabrice <Fabrice.Ouellet@cbsa-asfc.gc.ca>

Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Hello – here are comms bullets. Please advise if you require anything else.
Prog DG approved.

Thanks!

Ministerial Relief general:

- Canada takes its refugee protection obligations and its obligation to protect the safety and security of Canadians seriously. Balancing these considerations is a top priority for the Government of Canada.
- Individuals seeking Ministerial relief under subsection 42.1(1) of the Immigration and Refugee Protection Act are inadmissible to Canada on some of the most serious grounds.
- Only the Minister of Public Safety has the authority to grant relief. This authority cannot be delegated.
- Assessments of Ministerial relief applications are complex, requiring a rigorous case-by-case assessment, including a review of immigration and enforcement files, applicant submissions, and consultation with other government departments. This is necessary to ensure that consideration is given to all pertinent factors to ensure that relief is granted only where it is not contrary to the national interest to do so.
- Ministerial relief decisions are subject to review by the courts.

On the specific case / Momenzadeh-Tameh:

- As is indicated by the Court records that are within the public domain, Mr. Momenzadeh-Tameh and the Minister reached an agreement with respect to the timing regarding a Ministerial Relief decision on his case.
- Due to privacy legislation, no specific details of Mr. Momenzadeh-Tameh's case can be discussed

Ministerial Relief New Regulations

- The new regulations standardize the process for applying for Ministerial Relief, which will result in a more efficient, consistent and transparent application process.
- These regulations will avoid the applicant, the CBSA and the Minister focussing resources on processing applications which may not ultimately require Ministerial Relief.
- The new regulations do not affect the Minister's decision-making process or how different factors are considered by the Minister.
- The new regulations were published on March 22, 2017.

From: Marier, Ruth

Sent: March 30, 2017 2:07 PM

To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>;

Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Bouchard, Cindy <Cindy.Bouchard@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; Boyd, Colin <Colin.Boyd@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Greenough, Nicole <Nicole.Greenough@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>; Walker, Donald <Donald.Walker@cbsa-asfc.gc.ca>

Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Le français suit

Good afternoon,

A Question Period Note (QPN) has been requested on Ministerial Relief. Please see the media article referenced below.

Lead: Programs. Please submit your VP-approved QPN (English only) to PAU-UAP@cbsa-asfc.gc.ca **by 9 a.m. tomorrow, Friday, March 31**, using the attached template, and ensure that your QPN is unclassified.

Communications will forward generic media lines or previous communications material **by 3 pm**.

Please confirm receipt **as soon as possible** and advise Parliamentary Affairs if it should redirect this request.

*(*Note: Classified information requires separate template; any dollar amounts to be reported requires approval by the Chief Financial Officer within the allotted timeframe.)*

Thank you,
Parliamentary Affairs Unit

Bonjour,

La rédaction d'une note pour la période de questions (NPQ) est demandée relativement à l'article paru dans les médias au sujet de dispense ministérielle. Veuillez voir l'article ci-dessous.

Hanton, Ashley

From: Vansickle, Tracey
Sent: March 30, 2017 05:34 PM
To: StMarseille, Richard
Cc: Ducharme, Nyiri
Subject: FOR REVIEW: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Attachments: QPN MR inventory & Momenzadeh-Tameh mandamus.doc
Importance: High

QPN for your review. Sorry for the delay. I thought it would be mostly an updating of previous stuff but I had to rewrite a lot to get it to make sense and fit on one page. Also, my Word keeps crashing every time I open a new document; it's been doing that all day.

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
 Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: March 30, 2017 4:14 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: FW: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Importance: High

Fyi – as soon as possible with that QPN would be appreciated.

Not sure why, but they're pressing us for French by 8 am....

Richard St Marseille

a/Director
 Policy Division, Enforcement and Intelligence Programs
 Programs Branch
 Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
 Division des politiques, Programmes d'exécution de la loi et du renseignement
 Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Byrne, Patrick
Sent: March 30, 2017 4:13 PM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: RE: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

I believe the Translation Bureau offers "after hour" services. Unfortunately, more expensive, but it might be our only option.

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: StMarseille, Richard
Sent: March 30, 2017 4:12 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: RE: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Yes, she's also calling the bureau – 8 am I don't think will be possible for them either – we'll let you know, but in the meantime I would suggest letting VPO know 8am for the French is not likely feasible.

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Byrne, Patrick
Sent: March 30, 2017 4:07 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: RE: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Hi Richard,

I spoke with our Linguistic Services Officer. Unfortunately, due to the tight timelines, internal translation won't be an option for this QPN. My understanding is that Nyiri has a Translation Bureau account. Can we go that route once Jennifer's approved the English version?

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: StMarseille, Richard

Sent: March 30, 2017 3:39 PM

To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Subject: RE: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Thanks Patrick – could you please engage with internal translation DGO to convey that message.

I'm not sure it's technically feasible for us to have it in French by 8 am – unless translation stays late this afternoon.

Tks

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Byrne, Patrick

Sent: March 30, 2017 3:38 PM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Subject: RE: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

We now need to submit the QPN to VPO in both official languages.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseillère stratégique intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Byrne, Patrick

Sent: March 30, 2017 2:37 PM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Subject: TASKING BF to DGO 4pm today -- FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Hi Richard,

As discussed, please see below and prepare the QPN for MR using the attached template. English only.

BF to DGO 4pm today.

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

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Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Mousseau, Pauline

Sent: March 30, 2017 2:20 PM

To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>

Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Good afternoon,

A QPN has been requested on MR. Please see the media article referenced and additional information below.

Please provide an English only input by **8AM Tomorrow, Friday, March 31.**

Thank you,

Marjorie

Hanton, Ashley

From: Ducharme, Nyiri
Sent: March 31, 2017 01:56 PM
To: Vansickle, Tracey
Cc: Richard, Jean-Francois
Subject: Bilingual QPN - Comms VP approved - TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Attachments: QPN MR inventory Momenzadeh-Tameh mandamus - translated.doc

FYI

From: Henderson, Lana
Sent: March 31, 2017 8:34 AM
To: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Cc: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

FYI

Lana Henderson

A/Senior Program Officer, Programs Branch
Canada Border Services Agency / Government of Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tel: 613-952-7203 / TTY: 866-335-3237

Agente principal de programme p.i., Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tél: 613-952-7203 / ATS: 866-335-3237

From: Patrice, France
Sent: March 31, 2017 8:34 AM
To: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Subject: FW: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

For your files.

From: Patrice, France
Sent: March 31, 2017 8:32 AM
To: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Attached bilingual QPN approved by VP.

Merci,
France

From: CBSA-ASFC_PAU-UAP
Sent: March 31, 2017 8:02 AM
To: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Any updates on this QPN?

From: Blanchard, NathalieX
Sent: March 30, 2017 3:36 PM
To: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>; Dupont, Mathieu <Mathieu.Dupont@cbsa-asfc.gc.ca>
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

We will get it translated.

From: CBSA-ASFC_PAU-UAP
Sent: March 30, 2017 3:33 PM
To: Blanchard, NathalieX; Patrice, France; Mousseau, Pauline
Cc: CBSA-ASFC_PAU-UAP; Marier, Ruth; Dupont, Mathieu
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31
Importance: High

Good afternoon,

The CBSA in-house translation office has informed us that they be short on staff of Friday.

If you received your QPN this afternoon/evening, I would recommend that you send it for translation "urgent turn-around" to the translation bureau.

If you do, please confirm to us by replying "all" to this email.

Merci

Mathieu

From: Blanchard, NathalieX
Sent: March 30, 2017 2:11 PM
To: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>
Subject: RE: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

On it. Marjorie for/

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada

Nathaliex.Blanchard@cbsa-asfc.gc.ca /tél.: 613-954-7527

Chief of staff for VP, Programs Branch
Canada Border Services Agency

Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tel: 613-954-7527

From: Marier, Ruth

Sent: March 30, 2017 2:07 PM

To: Blanchard, NathalieX; Patrice, France; Mousseau, Pauline

Cc: CBSA-ASFC_PAU-UAP; Mackenzie, Joey; Bouchard, Cindy; Maisonneuve, Mélanie; Mundie, Robert; Morissette, José; Giolti, Patrizia; Cyr-Carriere, Alexandra; CBSA-ASFC_Comms_Coordination; Easton, Erika-Kirsten; Lacroix, Anne-Marie; Cléroux, Julie; Alie, Manon; Conroy, Samantha; Braham, Stephen; Chahal, Sandra; CBSA-ASFC_VPO_Comptrollership; Magloire-Prosper, Sachelle; Proulx, Kevin; Cyr-Delfino, Denise; Gratton, Veronique; Renaud, Dominic; Martyn, Ashley; Ibrahim, Nesreen; Copp, Kyla; Charron, Renée; Graham, Jason; Héroux, Melanie; Lenahan, Shannon; Boyd, Colin; CBSA-ASFC_Issues_Management-Gestion_des_questions; Greenough, Nicole; Gorley, Anik; Xavier, Caroline; Bindner, Melissa; Rancourt, Heather; Walker, Donald

Subject: QPN TASKING: Ministerial Relief / BF: 9 am Friday, Mar 31

Importance: High

Le français suit

Good afternoon,

A Question Period Note (QPN) has been requested on Ministerial Relief. Please see the media article referenced below.

Lead: Programs. Please submit your VP-approved QPN (English only) to PAU-UAP@cbsa-asfc.gc.ca **by 9 a.m., tomorrow, Friday, March 31**, using the attached template, and ensure that your QPN is unclassified.

Communications will forward generic media lines or previous communications material **by 3 pm**.

Please confirm receipt **as soon as possible** and advise Parliamentary Affairs if it should redirect this request.

*(*Note: Classified information requires separate template; any dollar amounts to be reported requires approval by the Chief Financial Officer within the allotted timeframe.)*

Thank you,
Parliamentary Affairs Unit

Bonjour,

La rédaction d'une note pour la période de questions (NPQ) est demandée relativement à l'article paru dans les médias au sujet de dispense ministérielle. Veuillez voir l'article ci-dessous.

Responsable : Programmes. Nous vous demandons de transmettre la NPQ approuvée par la/le v.-p. (version anglaise seulement) à PAU-UAP@cbsa-asfc.gc.ca **avant 9 h, demain, vendredi le 31 mars**. Veuillez utiliser le modèle fourni et vous assurer que l'information dans la NPQ est non classifiée.

Les Communications transmettront des infocapsules de nature générale ou d'autres documents pertinents **par 15h00.**

Nous vous demandons d'accuser réception de la tâche attribuée, **le plus tôt possible**, et d'informer l'Unité des affaires parlementaires si ce dossier ne relève pas de votre responsabilité et doit être redirigé.

*(*Nota : Il faut utiliser un modèle différent si l'information est classifiée; toute somme d'argent à divulguer doit être vérifiée et approuvée par le dirigeant principal des finances dans les délais impartis.)*

Merci

Unité des affaires parlementaires

NATIONAL POST

National Post.com

LEGAL POST, Words: 536

published: 2017-03-28

received: 2017-03-28 11:40 (EST)

National Post.com

LEGAL POST, Words: 536

Ministers must respond to requests for relief within reasonable time frame, court rules

by: Julius Melnitzer

The Federal Court of Canada has ruled that cabinet ministers are not entitled to wait "as many years as they see fit" before responding to valid requests from the public.

"Ministers of the Crown are typically very busy people," Chief Justice Paul Crampton acknowledged in a recent immigration decision involving Morteza Tameh. "But they are not so busy that they can take as many years as they see fit to respond to requests made pursuant to validly enacted legislation, by persons seeking determinations that are important to them. At some point, they will have an obligation to provide a response."

Yet the public might take small comfort from the court's ruling that a four-year delay in responding to a request for ministerial relief from an order of inadmissibility for permanent residence, is "at the outer limits of what is reasonable."

As it turned out, Tameh waited a total of eight years before applying to the Federal Court for an order requiring the Minister of Public Safety and Emergency Preparedness to rule on his request to become a permanent resident of Canada.

Tameh, previously granted refugee status, applied in 1994 to become a permanent resident.

In 2001, an immigration counsellor turned him down because of his previous involvement with a terrorist organization in his home country of Iran. The counsellor, however, recommended that the minister exercise his authority to grant relief from the order of inadmissibility.

Six years later, Stockwell Day, then federal Minister of Public Safety, denied the request for relief. In 2008, the Federal Court overturned Day's decision and sent the matter back for reconsideration.

Four years later, the minister had still not reconsidered. At that point, Tameh requested that the redetermination be delayed pending an important ruling from the Supreme Court of Canada that touched on the points in issue in his case. The Supreme Court released its decision in June 2013.

Almost four more years passed without a response from the minister. Tameh went back to the Federal Court with a request for an order requiring the minister to act. The minister's eventual response was dismissive.

"The minister takes the position that, because of his many duties and responsibilities, he should not be subject to any timeline whatsoever in rendering his determinations in respect of such requests," Crampton noted in his reasons before summarily dismissing the argument.

"I disagree," Crampton wrote. "Although the minister must have considerable latitude in prioritizing his many duties, he must nevertheless respond to requests made for ministerial relief, within a reasonable period of time."

What was reasonable, Crampton added, was related to the facts at hand. Here, the four-year delay between 2008 and 2012 while Tameh's application was being processed was "at the outer limit of what is reasonable in that regard." The additional 45-month delay after the SCC decision, however, was not reasonable.

"Stated differently," Crampton wrote, "I find that the minister has not provided a satisfactory justification for that additional delay."

At Crampton's urging, the government agreed to an order mandating a procedure that would have the minister render a decision within 315 days of the court's order.

The upshot is that Tameh will have to wait for almost another year before he knows his fate.

For the online article [click here](#).

Hanton, Ashley

From: Byrne, Patrick
Sent: March 31, 2017 02:42 PM
To: Lutfallah, Jennifer; Soper, Lesley L; StMarseille, Richard; Vansickle, Tracey
Cc: Henderson, Lana; Ducharme, Nyiri
Subject: FW: Today's QPN - Ministerial Relief
Attachments: QPN Ministerial Relief - Momenzadeh-Tameh.doc

Final version of the MR QPN attached.

Patrick Byrne

Acting Strategic Advisor, Programs Branch
 Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Patrice, France
Sent: March 31, 2017 2:33 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>
Subject: FW: Today's QPN - Ministerial Relief

Info

From: CBSA-ASFC_PAU-UAP
Sent: March 31, 2017 2:32 PM
To: CBSA-ASFC_PAU-UAP <PAU-UAP@cbsa-asfc.gc.ca>; Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Garbers, Raquel <Raquel.Garbers@cbsa-asfc.gc.ca>; Maisonneuve, Mélanie <Melanie.Maisonneuve@cbsa-asfc.gc.ca>; Mundie, Robert <Robert.Mundie@cbsa-asfc.gc.ca>; Morissette, José <Jose.Morissette@cbsa-asfc.gc.ca>; Giolti, Patrizia <Patrizia.Giolti@cbsa-asfc.gc.ca>; Cyr-Carriere, Alexandra <Alexandra.Cyr-Carriere@cbsa-asfc.gc.ca>; CBSA-ASFC_Comms_Coordination <Comms_Coordination@cbsa-asfc.gc.ca>; Easton, Erika-Kirsten <ERIKA-KIRSTEN.EASTON@cbsa-asfc.gc.ca>; Lacroix, Anne-Marie <ANNE-MARIE.LACROIX@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Alie, Manon <Manon.Alie@cbsa-asfc.gc.ca>; Conroy, Samantha <Samantha.Conroy@cbsa-asfc.gc.ca>; Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Braham, Stephen <Stephen.Braham@cbsa-asfc.gc.ca>; Chahal, Sandra <Sandra.Chahal@cbsa-asfc.gc.ca>; CBSA-ASFC_VPO_Comptrollership <VPO_Comptrollership@cbsa-asfc.gc.ca>; Magloire-Prosper, Sachelle <Sachelle.Magloire-Prosper@cbsa-asfc.gc.ca>; Proulx, Kevin <Kevin.Proulx@cbsa-asfc.gc.ca>; Cyr-Delfino, Denise <Denise.Cyr-Delfino@cbsa-asfc.gc.ca>; Gratton, Veronique <Veronique.Gratton@cbsa-asfc.gc.ca>; Renaud, Dominic <Dominic.Renaud@cbsa-asfc.gc.ca>; Martyn, Ashley <Ashley.Martyn@cbsa-asfc.gc.ca>; Ibrahim, Nesreen <Nesreen.Ibrahim@cbsa-asfc.gc.ca>; Copp, Kyla <Kyla.Copp@cbsa-asfc.gc.ca>; Charron, Renée <Renée.Charron@cbsa-asfc.gc.ca>; Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Héroux, Melanie <Melanie.Heroux@cbsa-asfc.gc.ca>; Lenahan, Shannon <Shannon.Lenahan@cbsa-asfc.gc.ca>; CBSA-ASFC_Issues_Management-Gestion_des_questions <Issues_Management-Gestion_des_questions@cbsa-asfc.gc.ca>; Gorley, Anik <Anik.Gorley@cbsa-asfc.gc.ca>; Xavier, Caroline <Caroline.Xavier@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rancourt, Heather <Heather.Rancourt@cbsa-asfc.gc.ca>

Cc: Marier, Ruth <Ruth.Marier@cbsa-asfc.gc.ca>

Subject: Today's QPN - Ministerial Relief

Good afternoon,

Please find attached the final QPN prepared by the Agency on the Ministerial Relief.

Thank you,

Mathieu Dupont

Senior Analyst / Analyste principal

Parliamentary Affairs Unit / Unité des affaires parlementaires

Canada Border Services Agency / Agence des services frontaliers du Canada

191 Laurier Ave. West / 191, avenue Laurier ouest

13th Floor, Office 117 / 13^e étage, pièce 117

Ottawa, Ontario K1A 0L8

mathieu.dupont@cbsa-asfc.gc.ca

Tel. 613-954-0351

Question Period Note / Note pour la Période des questions

MINISTERIAL RELIEF PROCESSING TIMES

ISSUE: On March 16, 2017, the Federal Court issued a *mandamus* order that the Minister of Public Safety and Emergency preparedness make a decision on the application for Ministerial relief of Morteza Momenzadeh-Tameh, who was found inadmissible to Canada in 2001 for membership in the Mujahedin-e-Kalq in Iran (MEK - then on the Government's terrorist entity list).

In 2008, the Federal Court set aside the Minister's previous denial of relief and ordered the Minister to re-determine Mr. Momenzadeh-Tameh's application.

The Federal Court invoked a special clause of federal court rules to order the Minister to pay the applicant \$4,000 because of what the court considered to be an unjustified and unreasonable delay in re-assessing the Ministerial Relief application. The court suggested that four years was a reasonable time period for the Minister to render a Ministerial Relief decision; the average age of cases currently in the Ministerial Relief inventory is 7.8 years.

The case has attracted media attention and other Ministerial Relief applicants have begun filing *mandamus* applications in light of the Federal Court's ruling in this case.

PROPOSED RESPONSE:

- **Canada takes its refugee protection obligations and its obligation to protect the safety and security of Canadians seriously. Balancing these considerations is a top priority for the Government of Canada.**
- **Individuals seeking Ministerial relief under subsection 42.1(1) of the *Immigration and Refugee Protection Act* are inadmissible to Canada on some of the most serious grounds, which is why only the Minister of Public Safety and Emergency Preparedness has the authority to grant relief, and only where it is not contrary to the national interest to do so.**
- **Assessment of applications is complex, requiring a rigorous case-by-case assessment, including a review of immigration and enforcement files, applicant submissions, and consultation with other government departments to ensure that all pertinent factors are considered.**
- **While shifting jurisprudence and historically high litigation rates have hampered efforts to reduce the backlog, settled case law, as well as regulatory amendments introduced in March 2017, are anticipated to improve the management of the inventory of cases.**
- **As indicated by the Court, an agreement was reached with Mr. Momenzadeh-Tameh regarding the timing of a decision on his case.**

MINISTERIAL RELIEF PROCESSING TIMES

BACKGROUND:

On the specific case / Momenzadeh-Tameh:

Ministerial Relief Processing Times:

While only the Minister of Public Safety has the authority to grant relief (MR is one of only four authorities that cannot be delegated), the Canada Border Services Agency (CBSA) reviews the application and provides a recommendation to the Minister. For procedural fairness, the CBSA's draft recommendation is shared with the applicant, who may submit further evidence or arguments to the Minister. MR assessments are complex and require an in-depth, case-by-case analysis - including a review of immigration and enforcement files, often voluminous applicant submissions (hundreds or even thousands of pages), and consultation with other government partners such as IRCC, CSIS and the RCMP.

Grants of relief are meant to be exceptional, and historically, there have been high refusal and litigation rates. Past high volumes of court redetermination orders (returning cases to the inventory and exacerbating backlog) and complex and evolving jurisprudence that substantially altered the assessment of MR cases (e.g., the 2011 and 2013 *Agraira* rulings), have resulted in the requirement to assess additional factors and more novel and complex applicant arguments in much greater depth while hampering efforts at inventory management. The *Agraira* SCC ruling led to both a re-evaluation of recommendations in the approval stream, and the re-determination of a number of cases recently decided by the Minister or under court scrutiny at the time the SCC judgment was delivered.

Although the FC has upheld 100% of the MR decisions rendered post-SCC *Agraira* (as opposed to an average of 28% pre-SCC *Agraira*), it has been made clear that this unprecedented level of support is due to the thoroughness and transparency of the lengthy and at times repetitive recommendations which satisfy the court that the Minister was apprised of, and demonstrated that he had considered, all possible pertinent factors. Therefore, in order to ensure that the Minister's decisions continue to be upheld, and that relief is granted only where it is not contrary to Canada's national interest, processing times are, by necessity, lengthy.

While MR-related regulations introduced in March 2017 will not affect the decision-making process or how different factors are considered by the Minister, they will standardize and clarify the application process and improve inventory management. They will also avoid the applicant, the CBSA and the Minister focussing resources on processing applications where the applicant may be found to be admissible at an earlier stage.

CONTACTS:

Prepared by
Tracey Vansickle
Manager, Ministerial Relief Unit
EIPD, Programs Branch

Tel. no.
613-957-0744

Approved by
Martin Bolduc
Vice-President, Programs Branch

Tel. no.
613-948-4445

DÉLAIS DE TRAITEMENT DES DISPENSES MINISTÉRIELLES

SUJET : Le 6 mars 2017, la Cour fédérale a délivré une ordonnance de *mandamus* intimant au ministre de la Sécurité publique et de la Protection civile de prendre une décision concernant la demande de dispense ministérielle présentée par Morteza Momenzadeh-Tameh, qui avait été jugé interdit de territoire au Canada en raison de son appartenance à l'organisation iranienne Mujahedin-e-Khalq (MEK, alors inscrite sur la liste des entités terroristes tenue par le gouvernement).

En 2008, la Cour Fédérale avait rejeté le précédent refus de dispense et ordonné au ministre de réévaluer la demande de M. Momenzadeh-Tameh

La Cour Fédérale a invoqué une disposition spéciale des *Règles des Cours fédérales* afin d'ordonner au ministre de verser un montant de 4000 \$ au demandeur en raison du délai que la Cour estimait injustifié et déraisonnable pour la réévaluation de cette demande de dispense ministérielle. La Cour a conclu que le ministre pouvait raisonnablement rendre une décision relative à une dispense ministérielle en quatre ans; l'âge moyen des cas figurant actuellement dans l'inventaire des cas de dispense ministérielle est de 7,8 ans.

Cette affaire a attiré l'attention des médias, alors d'autres demandeurs de dispense ministérielle ont commencé à déposer des demandes de *mandamus* à la lumière des récents jugements rendus par la Cour Fédérale dans cette affaire.

RÉPONSE PROPOSÉE

- **Le Canada ne prend pas à la légère ses engagements en matière de protection des réfugiés ni son obligation d'assurer la sécurité des Canadiens. La conciliation de ces deux aspects demeure un objectif prioritaire de notre gouvernement.**
- **Les personnes qui désirent obtenir une dispense ministérielle aux termes du paragraphe 42.1(1) de la *Loi sur l'immigration et la protection des réfugiés* sont interdites de territoire au Canada pour certains des motifs les plus graves, ce qui explique pourquoi seul le ministre de la Sécurité publique et de la Protection civile possède la compétence requise pour octroyer une dispense, et ce uniquement si cela n'est pas contraire à l'intérêt national.**
- **L'évaluation des demandes est un processus complexe exigeant une analyse rigoureuse au cas par cas, notamment un examen des dossiers d'immigration et d'exécution de la loi, l'étude des documents fournis par le demandeur et la tenue de consultations avec d'autres ministères pour veiller à ce que tous les facteurs pertinents soient pris en considération.**
- **Les précédents changeants et les taux de litiges historiquement élevés ont entravé les efforts de réduction de l'arriéré judiciaire, mais la**

jurisprudence constante ainsi que les modifications réglementaires introduites en mars 2017 devraient améliorer la gestion de l'inventaire des cas.

- **Comme l'a précisé la Cour, un accord a été conclu avec M. Momenzadeh-Tameh au sujet de la date à laquelle sera rendue la décision sur son cas.**

DÉLAIS DE TRAITEMENT DES DISPENSES MINISTÉRIELLES

CONTEXTE

Précisions sur ce cas particulier / Momenzadeh-Tameh

Délais de traitement des dispenses ministérielles

Même si le ministre de la Sécurité publique est le seul à posséder la compétence requise pour octroyer des dispenses (il s'agit de l'une des quatre compétences ne pouvant être déléguées), l'Agence des services frontaliers du Canada (ASFC) étudie les demandes et fait une recommandation audit ministre. Par souci d'équité procédurale, la recommandation proposée par l'ASFC est communiquée au demandeur, qui peut ensuite présenter d'autres preuves ou arguments au ministre. L'évaluation des demandes de DM constitue un processus complexe nécessitant une analyse au cas par cas détaillée, notamment un examen des dossiers d'immigration et d'application de la loi et de documents de demandeurs souvent volumineux (des centaines, voire des milliers de pages), en plus de la consultation d'autres partenaires gouvernementaux, dont IRCC, SCRS et la GRC.

Les octrois de dispenses se veulent exceptionnels, et dans le passé, les refus et les litiges se sont fait nombreux. Les nombreuses ordonnances passées qui demandent un nouveau jugement (s'ajoutant à nouveau à l'inventaire et aux arriérés exacerbant) devant la jurisprudence qui s'avère complexe et évolutive, modifient considérablement l'évaluation des cas de DM (p. ex., les décisions *Agraira* de 2011 et 2013) ont exposé la nécessité d'évaluer, les facteurs supplémentaires et les arguments plus originaux et complexes de la part des demandeurs, tout en entravant la gestion de l'inventaire. La décision *Agraira* de la CSC a entraîné la réévaluation de recommandations déjà soumises au processus d'approbation, et de nombreux cas récemment tranchés par le ministre, ou à l'étude de la Cour au moment où le jugement de la CSC a été livré, ont dû subir un nouvel examen.

Même si la Cour fédérale a respecté 100 % des ordonnances relatives aux dispenses ministérielles rendues suite à la décision *Agraira* de la CSC (contrairement à une moyenne de 28 % auparavant), il a été clairement avancé que ce niveau de soutien sans précédent découle de la rigueur et de la transparence des recommandations très longues et parfois répétitives qui, selon la Cour, avaient été communiquées au ministre et démontraient qu'il avait considéré tous les facteurs pertinents possibles. Pour s'assurer ainsi que les décisions du ministre continuent à être respectées et que les dispenses ne sont octroyées que lorsque cela ne va pas à l'encontre de l'intérêt national du Canada, les délais de traitement seront, par la force des choses, fastidieux.

Même si les règlements relatifs aux dispenses ministérielles introduits en mars 2017 n'auront pas d'incidence sur le processus décisionnel ou sur la façon dont divers facteurs sont évalués par le ministre, ils permettront de normaliser et de clarifier le processus de demande et d'améliorer les mécanismes de gestion de l'inventaire. Ils éviteront également aux demandeurs, à l'ASFC et au ministre de concentrer leurs ressources au traitement des applications où le demandeur peut être considéré admissible à un

| | | | |
|---|----------------------------|--|----------------------------|
| stade plus précoce. | | | |
| PERSONNE RESSOURCE Préparée par Tracey Vansickle Directrice, Unité des dispenses ministérielles DPELR, Direction générale des programmes | N° de tél. 613-957-0744 | Approuvée par Martin Bolduc Vice-président, Direction générale des programmes | N° de tél. 613-948-4445 |

Hanton, Ashley

From: StMarseille, Richard
Sent: April 21, 2017 02:39 PM
To: Calma, Gordan
Cc: Vansickle, Tracey; Campbell, Jamison; Ismail, Naureen; Ducharme, Nyiri
Subject: RE: Urgent - MR Fact Sheet
Attachments: Ministerial Relief – Inventory and Litigation (April 21, 2017).docx

Dgo just advised it was approved and sent to vpo

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 21, 2017 2:33 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Cc: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE: Urgent - MR Fact Sheet

Thank you.

Here's the version I sent to DGO.

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

Hanton, Ashley

From: StMarseille, Richard
Sent: April 21, 2017 03:09 PM
To: Lutfallah, Jennifer
Cc: Soper, Lesley L; Byrne, Patrick; Ducharme, Nyiri; Henderson, Lana; Vansickle, Tracey
Subject: RE: Urgent - MR Fact Sheet

We just received on additional piece of info that Peter may want for his meeting.

- On the new mandamus cases, while we do not have specific dates yet for the two new mandamus applications, in general, if leave is granted we can expect the cases to be heard within eight to nine months of notification of the mandamus application by the court to the CBSA.

I have asked Tracey to add a list of all mandamus cases and their status on the summary stats sheet of the monthly report MRU will be providing me and DGO from now forward for info.

tk

Richard St Marseille

a/Director
 Policy Division, Enforcement and Intelligence Programs
 Programs Branch
 Canada Border Services Agency / Government of Canada
 Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
 Division des politiques, Programmes d'exécution de la loi et du renseignement
 Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
 Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: April 21, 2017 2:36 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: RE: Urgent - MR Fact Sheet

Approved and gone. Thanks!!!

Jennifer Lutfallah
 Director General | Directrice-générale
 Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
 Programs Branch | Direction général des programmes
 Canada Border Services Agency | Agence des services frontaliers du Canada
 10028 - 100 Metcalfe
 Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca

Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237

Government of Canada | Gouvernement du Canada

From: StMarseille, Richard

Sent: April 21, 2017 2:32 PM

To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>

Cc: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Subject: RE: Urgent - MR Fact Sheet

Please find the fact sheet attached.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Henderson, Lana

Sent: April 21, 2017 10:42 AM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Cc: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>

Subject: FW: Urgent - MR Fact Sheet

Importance: High

Hi Richard,

Please see urgent request below for a one-pager MR fact sheet.

Please BF to DGO at 13:00 today.

Thanks,
Lana

Lana Henderson

A/Senior Program Officer, Programs Branch
 Canada Border Services Agency / Government of Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tel: 613-952-7203 / TTY: 866-335-3237

Agente principal de programme p.i., Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tél: 613-952-7203 / ATS: 866-335-3237

From: Patrice, France
Sent: April 21, 2017 10:40 AM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>
Subject: FW: Urgent - MR Fact Sheet
Importance: High

Lana,

The PO is requesting that Programs prepare a one-pager / fact sheet on MR, to address the following:

- Current backlog (pre and post new regulations coming into force)

Current backlog: 301 (no new applications since the coming-into-force of the MR regs have been accepted).

- How many MR files are in the MO for a decision, and how many will be provided this year.

4 MR files are currently in the MO for a decision. The MRU anticipates to provide between 8 and 10 finalized MR recommendations to the MO this year. This may be impacted by: changes in file prioritization with respect to any new and current litigation (e.g., mandamus applications, court-ordered redeterminations, etc.), extensions requested by applicants to provide post-disclosure submissions, submissions provided by applicants that may necessitate significant revisions and/or re-disclosure, etc.

Recent Court Order Decision on Mandamus Application (overall timelines, what happens if no decision rendered in time, when can the Minister expect to see the case etc.)

- Other Mandamus Applications filed (how many, when will they be heard...)

As far as the MRU is aware, the following two (2) *mandamus* applications were filed with the Federal Court following the ruling in *Momenzadeh-Tameh*:

Anything else to provide an overview of the current litigation environment and current realities of the MR program.

Since the coming-into-force of the MR regulations on March 10, 2017, the MRU has successfully closed 20 MR applications for applicants who have obtained permanent resident status. This reduced the inventory numbers from 321 to 301 active applications. The MRU expects to close an additional 10 cases by the end of April, 2017, which will reduce the inventory to 291 cases. Of note, pursuant to the new regulatory amendments, the MRU has also returned unprocessed 100% of MR applications received post-coming-into-force of the MR regs.

While working to reduce its inventory of cases, the MRU is currently experiencing a high volume of work specifically relating to the March 10, 2017 coming-into-force of MR regulations. Moreover, following the unfavourable FC ruling in *Momenzadeh-Tameh*, the MRU has been experiencing an increased number of status update requests from applicants, counsel and MPs. In light of comments made by the ruling judge pertaining to reasonable timeframes for MR decisions, several of the recent inquiries refer to the age of the application and request or demand that a decision be rendered by the Minister. The MRU anticipates an increased number of *mandamus* applications in the coming months which, with current resources, will impact the unit's ability to meet strict court-mandated deadlines. As stated above, if a court-ordered deadline is not met, the Minister may be held in contempt of court.

We will need this by 2 pm. today

Merci,
France

Hanton, Ashley

From: StMarseille, Richard
Sent: April 24, 2017 11:03 AM
To: Vansickle, Tracey
Subject: Fw: Min Relief - priority requests - Q&A document for MO briefing
Attachments: Ministerial Relief Inventory and Litigation (April 21 2017) Update April 24.docx

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Sent: Monday, April 24, 2017 9:51 AM
To: Lutfallah, Jennifer
Cc: Henderson, Lana; Byrne, Patrick
Subject: RE: Min Relief - priority requests

Hi Jennifer,

We have updated the Q&A document in tracked changes to cover off the latest questions.

Tks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: April 24, 2017 9:12 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests

Do we have a statistical analysis of the cases in the inventory? Please advise and if we don't have one, do not undertake a statistical analysis.

Jennifer Lutfallah
Director General | Directrice-générale

Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Télécopieur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)
Sent: April 24, 2017 9:10 AM
To: Lutfallah, Jennifer <jennifer.lutfallah@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>
Subject: Re: Min Relief - priority requests

Jennifer -

I believe we have a good statistical analysis of the profile of all the cases in the inventory - showing oldest to most recent - pls send that to me.

I expect Minister will want a sense of how many mandamus cases could there be...

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:51 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Re: Min Relief - priority requests

Thx

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Lutfallah, Jennifer
Sent: Monday, April 24, 2017 8:46 AM
To: Hill, PeterD(CBSA)
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: RE: Min Relief - priority requests

<http://www.cbc.ca/news/politics/immigration-public-safety-minister-decisions-court-1.4046314>

<http://www.gazette.gc.ca/rp-pr/p2/2017/2017-03-22/html/sor-dors38-eng.php>

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
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Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Télécopieur 1-866-335-3237

Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)

Sent: April 24, 2017 8:33 AM

To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>

Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>

Subject: Re: Min Relief - priority requests

Did Agency provide applicant w draft MR recommendation by April 16, 2017? If yes, plse send me copy.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)

Sent: Monday, April 24, 2017 8:23 AM

To: Lutfallah, Jennifer

Cc: Mousseau, Pauline; Carbonneau, Alex

Subject: Re: Min Relief - priority requests

Hi Jennifer - plse also send me link to the new MR regs.

Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)

Sent: Monday, April 24, 2017 8:16 AM

To: Lutfallah, Jennifer

Cc: Mousseau, Pauline; Carbonneau, Alex

Subject: Min Relief - priority requests

'Morning Jennifer:

I reviewed the materials on weekend - very helpful.

For this morning to assist my prep:

Plse send me the recent article on the MR case that has attracted Mino attention.

Momenzadeh-Tameh's case?

What is Rule 9 (ref to receipt by MRU April 19, 2017 (ref Q4 on the Qs+As v2)?

Expect Minister may be interested in our strategy to deal with the backlog, incl so as to avoid more mandamus.

Alex - plse schedule phonecall 10:30 - 11am bwn me and Jennifer today so we can discuss MR / any 'loose ends.'

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

**Ministerial Relief – Inventory and Litigation
Questions and Answers: April 21, 2017**

Q1: Current backlog (pre and post new regulations coming into force)?

Current backlog: There are 301 MR applications in the inventory. No new applications since the coming-into-force of the MR regulations have been accepted for processing.

Q2: How many MR files are in the Minister's Office (MO) for a decision, and how many will be provided this year?

Four MR files are currently in the MO awaiting a decision.

The Ministerial Relief Unit (MRU) anticipates to provide between 8 and 10 additional finalized MR recommendations to the MO this calendar year.

Please note that this level of production may vary depending on factors such as: any potential salary reductions applicable to the unit, turnover/attrition, ability to conduct replacement staffing actions on a timely basis, ad hoc requests for program proposals which may detract from case processing, changes in file prioritization with respect to any new and current litigation (e.g., *mandamus* applications, court-ordered redeterminations, etc.), extensions requested by applicants to provide post-disclosure submissions, submissions provided by applicants that may necessitate significant revisions and/or re-disclosure, etc.

Q3: Recent Court Order Decision on Mandamus Application: (overall timelines, what happens if no decision rendered in time, when can the Minister expect to see the case etc.)

Q4: Other Mandamus Applications filed (how many, when will they be heard...)

As far as the MRU is aware, the following two (2) *mandamus* applications were filed with the Federal Court following the ruling in *Momenzadeh-Tameh*:

Q5: Anything else to provide an overview of the current litigation environment and current realities of the MR program?

Since the coming-into-force of the MR regulations on March 10, 2017, the MRU has successfully closed twenty (20) MR applications for applicants who have obtained permanent resident status. This reduced the inventory numbers from 321 to 301 applications. The MRU expects to close an additional 10 cases by the end of April, 2017, which will reduce the inventory to 291 cases. Of note, pursuant to the new regulatory amendments, the MRU has also returned, unprocessed, 100% (2 out of 2) of MR applications received post-coming-into-force of the MR regulations (for non-compliance with the new regulations). Accordingly, the regulations have thus far had a positive impact on the inventory of cases.

While concurrently working toward reducing its inventory of cases, the MRU is currently experiencing a high volume of additional requirements, specifically relating to the March 10, 2017 coming-into-force of MR regulations. This includes, for instance, triaging of cases in light of the regulatory requirements and closure authorities.

Moreover, following the unfavourable Federal Court ruling in *Momenzadeh-Tameh*, the MRU has been experiencing an increased number of status update requests from applicants, counsel and MPs. In light of comments made by the ruling judge pertaining to reasonable timeframes for MR decisions, several of the recent inquiries refer to the age of the application and request/demand that a decision be rendered by the Minister. The MRU anticipates an increased number of *mandamus* applications in the coming months which, with current resources, will impact the unit's ability to meet strict court-imposed deadlines. As stated above, if a court-ordered deadline is not met, the Minister may be held in contempt of court.

The lack of any clerical or administrative support in the Division, including in MRU, means that officer level employees continue to be required to perform these duties (e.g. copying, shredding, printing, collating, reconciling financial and administrative transactions etc.), which detracts from their core application processing functions.

Q6) What is the strategy to deal with the backlog, and avoid more mandamus cases?

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The Ministerial Relief Unit is focusing existing resources on closing cases pursuant to the authorities provided in the regulations which came into force in March 2017. Remaining resources are dedicated to processing applications as required.

Q7) What is the average age of cases in the inventory?

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The average age of cases in the inventory is approximately 8 years.

| Active Ministerial Relief Cases | |
|---------------------------------|------------|
| 1996 | 1 |
| 2000 | 2 |
| 2001 | 1 |
| 2002 | 10 |
| 2003 | 24 |
| 2004 | 12 |
| 2005 | 17 |
| 2006 | 17 |
| 2007 | 14 |
| 2008 | 26 |
| 2009 | 35 |
| 2010 | 40 |
| 2011 | 28 |
| 2012 | 9 |
| 2013 | 12 |
| 2014 | 15 |
| 2015 | 20 |
| 2016 | 15 |
| 2017 | 3 |
| TOTAL | 301 |

Hanton, Ashley

From: Bosse, Julie
Sent: May 3, 2017 08:06 AM
To: Ott, Lydia
Cc: Lutfallah, Jennifer; StMarseille, Richard; Calma, Gordan; Soper, Lesley L
Subject:
Attachments:

Good morning Lydia,

Please do not hesitate to call me if you have any questions or wish to discuss.

Many thanks,

From: Ott, Lydia

Sent: May 2, 2017 8:43 AM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>

Cc: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Subject:

Hello,

Please let me know if you have any questions. I am available to discuss at your convenience.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor - Client Privilege

Hanton, Ashley

From: Bosse, Julie
Sent: May 3, 2017 03:23 PM
To: Calma, Gordan
Subject:
Attachments:

fyi

From: Byrne, Patrick
Sent: May 3, 2017 3:09 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject:

Updated copy attached for your records.

Thank you,

Patrick Byrne
Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Bosse, Julie
Sent: May 3, 2017 2:39 PM
To: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Subject:

My apologies,
Many thanks,

From: Ducharme, Nyiri
Sent: May 3, 2017 2:36 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject:

Hi Patrick,

I've made a couple editorial tweaks but the attached version is otherwise approved by the A/Manager of MRU.

Thanks,
Nyiri

From: Byrne, Patrick
Sent: May 3, 2017 2:16 PM
To: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: FW:

Approved by your Division?

Patrick Byrne
Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Ott, Lydia
Sent: May 3, 2017 2:14 PM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Parent-Marquis, Sophie <Sophie.Parent-Marquis@cbsa-asfc.gc.ca>
Subject:

Hi Patrick and Julie,

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege

Hanton, Ashley

From: Ott, Lydia
Sent: May 11, 2017 03:58 PM
To: Bosse, Julie
Cc: Calma, Gordan
Subject:
Attachments:

Hi Julie,

Thank you,

Lydia

From: Bosse, Julie
Sent: May 11, 2017 3:26 PM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject:

Good afternoon Lydia,

Thank you Gordan for the quick turnaround.

Many thanks,

From: Ott, Lydia
Sent: May 11, 2017 2:59 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject:

Thanks Julie.

Thanks,

Lydia

From: Bosse, Julie
Sent: May 11, 2017 2:48 PM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>

Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>

Subject:

Just as a heads-up.

From: Gooding, Mallory

Sent: May 11, 2017 2:17 PM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Subject:

Hi Julie,

I have a docket here that requires a few changes. **BF to DO (me) by 3pm** tomorrow.

Thank you!

Mallory Gooding

Policy Analyst

Immigration Enforcement Policy Unit, Programs Branch

Canada Border Services Agency / Government of Canada

Mallory.Gooding@cbsa-asfc.gc.ca / Tel : 613-954-7634 / TTY : 866-335-3237

Analyste des politiques

Unité des politiques d'exécution de la loi en matière d'immigration, Direction générale des programmes

Agence des services frontaliers du Canada / Gouvernement du Canada

Mallory.Gooding@cbsa-asfc.gc.ca / Tél : 613-954-7634 / ATS : 866-335-3237

From: Henderson, Lana

Sent: May 11, 2017 1:57 PM

To: Gooding, Mallory <Mallory.Gooding@cbsa-asfc.gc.ca>

Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>;

Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>

Subject:

Hi Mallory,

I'll bring you the docket – a couple changes are needed. **Please BF to DGO by COB May 12, 2017.**

Thanks,

Nyiri (for Lana)

Lana Henderson

A/Senior Program Officer, Programs Branch

Canada Border Services Agency / Government of Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tel: 613-952-7203 / TTY: 866-335-3237

Agente principal de programme p.i., Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Lana.Henderson@cbsa-asfc.gc.ca / Tél: 613-952-7203 / ATS: 866-335-3237

From: Mousseau, Pauline

Sent: May 11, 2017 12:51 PM

To: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Charbonneau, Karine <Karine.Charbonneau@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>

Cc: CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF <CBSA-ASFC-DIST-HQ_PRG_VPO_AVPO_STAFF@cbsa-asfc.gc.ca>

Subject

Bonjour,

A few very straight forward changes required. Note explains inside docket.

BF: May 15th 10am.

Thank you,

Pauline

Hanton, Ashley

From: Bosse, Julie
Sent: July 5, 2017 07:37 AM
To: Ismail, Naureen
Subject: mailbox inquiries and responses

Hello Naureen,

I can't remember if I specifically made everyone on the team aware of the standardized response approved by DO and DGO. Many thanks,

Standard response approved by DO and DGO

Julie Bossé
A/Manager – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Julie.bosse@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire p.i. programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des Services Frontaliers du Canada/ Gouvernement du Canada
Julie.bosse@cbsa-asfc.gc.ca / Tél.: 613-957-0744/ ATS: 866-335-3237

Bosse, Julie

From: Henry, David
Sent: March 29, 2017 05:04 PM
To: Xavier, Caroline
Cc: Hill, PeterD(CBSA); Kramer, Susan; Desmarais, Carl; Blanchard, NathalieX; Walker, Donald; Dvorski, Rick; Paquet, Stéphane; Ludwig, Edward; Sorensen, Anders; Giolti, Patrizia; O'Brien, Travis; Worrall, Rula: CIC / CIC; Lipo, Ilir: CIC / CIC; Desrochers, Philippe: CIC / CIC; Case-Management, CBSA-NHQ; Charbonneau, Anne-Marie; Soper, Lesley L; LegerSt-Cyr, David: CIC / CIC; Lamb, Myriam: CIC / CIC; Annett, Tracy; Friberg, Jennifer; Helsdon, John; 'PS.Litigation-Litiges.SP@ps-sp.gc.ca'; Lapierre, Jerome: CIC / CIC; Wetherall, Colleen; Bosse, Julie; LeFrank, Andrew; Vansickle, Tracey; Smith, Heidi: CIC / CIC; Saunders, Kimberly; Skilton, Ralph; Primeau, Heather: CIC / CIC; Maisonneuve, Mélanie; Lefebvre, Nicole; Mackenzie, Joey; Bolduc, Martin; Vinette, Denis R.; Barisic, Zrinka; Joyce, Niky; Panagakos, Helene: CIC / CIC; Nicolaou, Kenny; Guimond, Julie; Saindon, Hubert; Leduc, Melanie; CBSA-ASFC_OPS_IEO-OEI; Parnham, Carina: CIC / CIC; Cloutier, Jacques; 'McDaniel, Carly (PS/SP)'; Henriques, Filipe: PS / SP; Whitehorne, Philip; Kennedy, Elizabeth: CIC / CIC; Picur, Betty; Armstrong, Elyse; Lutfallah, Jennifer; Byrne, Patrick; Leith, Gayle: CIC / CIC; Faggiani, Nadia: CIC / CIC; CBSA-ASFC-DIST_Security_Litigation_Management; 'patrick.juneau@canada.ca'; Bush, Brett; Barrick, Alison; Braund, Regan; Martens, Catherine; Militky, Dag
Subject: Litigation Management Daily Summary - March 29, 2017

Certificates and Cases of Interest – March 29, 2017

Court Decisions:

Court Appearances / Court Teleconferences:

- Nothing of note to report.

Court Filings / On-going Preparations:

- Nothing of note to report.

David Henry

Senior Litigation Advisor / Operations Branch
Canada Border Services Agency / Government of Canada
David.Henry@cbsa-asfc.gc.ca / Tel: 613-948-7675 / TTY: 866-335-3237

Conseiller principal en matière de litiges / Direction générale des opérations
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Bosse, Julie

From: Leroux, Marianne
Sent: April 3, 2017 12:52 PM
To: DesJardins, Veronique; Neufeld, Vicky; Henry, David; Young, Brad; Frizzell, Marty; Brennan, Ashley; Cave, Stephanie; Carey, Brandon; Bosse, Julie; Roy, Veronique; Regimbald, Catherine
Subject:

From: Forrester, Mylene
Sent: April-03-17 12:50:25 PM (UTC-05:00) Eastern Time (US & Canada)
To: Smith, Heidi: CIC / CIC; Leroux, Marianne
Subject: FW:

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FYI/PVI

Mylène Forrester
Paralegal | Parajuriste
Legal Issues Coordination Group | Groupe de coordination des enjeux juridiques
Office of the Assistant Deputy Minister | Bureau du Sous-ministre adjoint
Public Safety, Defence and Immigration Portfolio | Portefeuille de la Sécurité publique, de la Défense et de l'Immigration
Department of Justice Canada | Ministère de la Justice Canada
284 Wellington Street EMB 2296, Ottawa ON | 284, rue Wellington ECE 2296, Ottawa ON K1A 0H8
Telephone | Téléphone : 613-960-0882
Government of Canada/Gouvernement du Canada

Bosse, Julie

From: Ducharme, Nyiri
Sent: July 4, 2017 09:52 AM
To: Bosse, Julie
Subject: RE: Follow-up on BN's at MO seeking concurrence with

Good morning Julie,

It was signed by the President on Wednesday and transmitted to the Minister's Office on Thursday morning. Let me know if you would like me to request DGO to check on its status in MinO.

Thanks,
Nyiri

From: Bosse, Julie
Sent: July 4, 2017 9:48 AM
To: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE: Follow-up on BN's at MO seeking concurrence with

Hello Nyiri,
Would it be possible follow-up on the BN to MINO regarding
Many thanks,

From: Campbell, Jamison
Sent: June 26, 2017 10:43 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: Follow-up on BN's at MO seeking concurrence with

Good morning, Richard.

Thank you,

Jamison

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

Conseiller principal de programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des Services Frontaliers du Canada/ Gouvernement du Canada
jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

Campbell, Jamison

From: Bosse, Julie
Sent: May 1, 2017 12:46 PM
To: Calma, Gordan
Cc: Hanton, Ashley; Ducharme, Nyiri; Campbell, Jamison; Ismail, Naureen; Gloster, Craig; StMarseille, Richard
Subject: RE: Min Relief - priority requests - Mandamus order timeline

Good morning Gordan,

Thank you for this helpful input. I will definitively schedule a meeting this week to specifically discuss *mandamus* files,

Many thanks,

From: Calma, Gordan
Sent: May 1, 2017 11:06 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: RE: Min Relief - priority requests - Mandamus order timeline

Good morning, Julie.

As discussed:

Julie, would you be able to meet with the FB06s sometime this week to discuss the target dates?

target

Thanks.
Gordan

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

Conseiller principal en programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 28, 2017 10:36 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: Fw: Min Relief - priority requests - Mandamus order timeline

For tracking.

On the monthly status report, I would like target dates for all the mandamus cases plz.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Sent: Monday, April 24, 2017 12:10 PM
To: StMarseille, Richard
Subject: Min Relief - priority requests - Mandamus order timeline

Hi Richard,

Further to Peter's request during the teleconference with Jennifer this morning, please find below the l

Tracey Vansickle

Manager - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Tracey.Vansickle@cbsa-asfc.gc.ca / Tél: 613-957-0744 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: April 24, 2017 11:03 AM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Subject: Fw: Min Relief - priority requests

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Sent: Monday, April 24, 2017 9:51 AM
To: Lutfallah, Jennifer
Cc: Henderson, Lana; Byrne, Patrick
Subject: RE: Min Relief - priority requests

Hi Jennifer,

We have updated the Q&A document in tracked changes to cover off the latest questions.

Tks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement

Direction générale des programmes
 Agence des services frontaliers du Canada / Gouvernement du Canada
 Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: April 24, 2017 9:12 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: Min Relief - priority requests

Do we have a statistical analysis of the cases in the inventory? Please advise and if we don't have one, do not undertake a statistical analysis.

Jennifer Lutfallah
 Director General | Directrice-générale
 Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
 Programs Branch | Direction général des programmes
 Canada Border Services Agency | Agence des services frontaliers du Canada
 10028 - 100 Metcalfe
 Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
 Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
 Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)
Sent: April 24, 2017 9:10 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <Pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>
Subject: Re: Min Relief - priority requests

Jennifer -

I believe we have a good statistical analysis of the profile of all the cases in the inventory - showing oldest to most recent - pls send that to me.

I expect Minister will want a sense of how many mandamus cases could there be...

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:51 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Re: Min Relief - priority requests

Thx

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Lutfallah, Jennifer
Sent: Monday, April 24, 2017 8:46 AM
To: Hill, PeterD(CBSA)
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: RE: Min Relief - priority requests

<http://www.cbc.ca/news/politics/immigration-public-safety-minister-decisions-court-1.4046314>

<http://www.gazette.gc.ca/rp-pr/p2/2017/2017-03-22/html/sor-dors38-eng.php>

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)
Sent: April 24, 2017 8:33 AM
To: Lutfallah, Jennifer <jennifer.lutfallah@cbsa-asfc.gc.ca>
Cc: Mousseau, Pauline <pauline.mousseau@cbsa-asfc.gc.ca>; Carbonneau, Alex <Alex.Carbonneau@cbsa-asfc.gc.ca>
Subject: Re: Min Relief - priority requests

Did Agency provide applicant w draft MR recommendation by April 16, 2017? If yes, plse send me copy.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:23 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Re: Min Relief - priority requests

Hi Jennifer - plse also send me link to the new MR regs.
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hill, PeterD(CBSA)
Sent: Monday, April 24, 2017 8:16 AM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Carbonneau, Alex
Subject: Min Relief - priority requests

'Morning Jennifer:

I reviewed the materials on weekend - very helpful.

For this morning to assist my prep:

Plse send me the recent article on the MR case that has attracted Mino attention.

Momenzadeh-Tameh's case?

What is Rule 9 (ref to receipt by MRU April 19, 2017 (ref Q4 on the Qs+As v2)?

Plse send me chrono

? Plse send me chrono

Expect Minister may be interested in our strategy to deal with the backlog, incl so as to avoid more mandamus.

Alex - plse schedule phonecall 10:30 - 11am bwtm me and Jennifer today so we can discuss MR / any 'loose ends.'

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

Campbell, Jamison

From: Ott, Lydia
Sent: May 9, 2017 03:16 PM
To: Bosse, Julie
Cc: Henry, David; Cowman, Kathryn; Campbell, Jamison; Ismail, Naureen
Subject: MR Mandamus Meeting
Attachments:

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Julie,

I look forward to our discussion on Thursday. If you have any questions, please do not hesitate to contact me.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

Campbell, Jamison

From: Bosse, Julie
Sent: May 10, 2017 09:26 AM
To: Campbell, Jamison
Cc: Ismail, Naureen; Hanton, Ashley
Subject: RE:

Than you Jamison, this will be helpful for providing context to LMU and LSU in advance of the meeting tomorrow.

From: Campbell, Jamison
Sent: May 10, 2017 9:22 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Subject: RE:

Hi Julie –

Thanks,

Jamison

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

Conseiller principal de programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des Services Frontaliers du Canada/ Gouvernement du Canada
jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

From: Ott, Lydia

Sent: May 9, 2017 3:16 PM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>

Subject:

Hi Julie,

I look forward to our discussion on Thursday. If you have any questions, please do not hesitate to contact me.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

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Campbell, Jamison

From: Bosse, Julie
Sent: May 11, 2017 03:17 PM
To: Ott, Lydia
Cc: Henry, David; Cowman, Kathryn; Campbell, Jamison; Ismail, Naureen; DesJardins, Veronique; StMarseille, Richard; Lefebvre, Manon
Subject: RE:

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Thank you Lydia, your input has been very helpful. As indicated at the meeting, we will brief up and confirm support from senior management before taking any firm decisions on how to resolve these litigations. I will keep you updated.

Many thanks,

From: Ott, Lydia
Sent: May 11, 2017 2:57 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; DesJardins, Veronique <Veronique.DesJardins@cbsa-asfc.gc.ca>; StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Lefebvre, Manon <Manon.Lefebvre@cbsa-asfc.gc.ca>
Subject: RE:

Hi Julie,

If you have any questions or wish to further discuss, please do not hesitate to contact me.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege

From: Bosse, Julie
Sent: May 11, 2017 9:13 AM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>
Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; DesJardins, Veronique <Veronique.DesJardins@cbsa-asfc.gc.ca>
Subject: RE:

PROTECTED: Solicitor – Client Privilege/ Litigation Privilege

Good morning Lydia,

Thank you for your input.

Many thanks,

From: Ott, Lydia

Sent: May 9, 2017 3:16 PM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>

Subject:

Hi Julie,

I look forward to our discussion on Thursday. If you have any questions, please do not hesitate to contact me.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege

Campbell, Jamison

From: Bosse, Julie
Sent: June 23, 2017 02:26 PM
To: Cowman, Kathryn; Ott, Lydia; Cham, Veronica: JUS / JUS; Desalliers, Natalie: CIC / CIC; Campbell, Jamison
Cc: Sonnenschein, Olive
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

It works for me.

From: Cowman, Kathryn
Sent: June 23, 2017 2:22 PM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>; Cham, Veronica: JUS / JUS <veronica.cham@justice.gc.ca>; Desalliers, Natalie: CIC / CIC <natalie.desalliers@cic.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Sonnenschein, Olive <Olive.Sonnenschein@cbsa-asfc.gc.ca>
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

Sure, my morning has opened up, that works for me. Everyone else?

Thank you,

Kathryn Cowman
613-957-6001

From: Ott, Lydia
Sent: June 23, 2017 2:22 PM
To: Cham, Veronica: JUS / JUS <veronica.cham@justice.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Desalliers, Natalie: CIC / CIC <natalie.desalliers@cic.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Sonnenschein, Olive <Olive.Sonnenschein@cbsa-asfc.gc.ca>
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

Could we try Monday morning at 9:30 am, as I am not available in the afternoon and then I am away for the rest of the week.

Thanks,

Lydia

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Cham, Veronica
Sent: Friday, June 23, 2017 2:19 PM
To: Cowman, Kathryn; Ott, Lydia; Desalliers, Natalie: CIC / CIC; Bosse, Julie
Cc: Sonnenschein, Olive
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

Yes that works for me.

Veronica Cham
Counsel
Immigration Law Division
416-954-2716

This message may be subject to solicitor-client privilege.

From: Cowman, Kathryn
Sent: Friday, June 23, 2017 12:33 PM
To: Cham, Veronica; Ott, Lydia (CBSA); Desalliers, Natalie: CIC / CIC; Bosse, Julie
Cc: Sonnenschein, Olive (CBSA)
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

Hi Veronica,

We should probably have a call about this next week.

Does Monday at 2:30 work for everyone?

Thank you,

Kathryn Cowman
613-957-6001

From: Cham, Veronica [<mailto:Veronica.Cham@justice.gc.ca>]
Sent: June 23, 2017 11:29 AM
To: Ott, Lydia <Lydia.Ott@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Henry, David <David.Henry@cbsa-asfc.gc.ca>; Desalliers, Natalie: CIC / CIC <natalie.desalliers@cic.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Sonnenschein, Olive <Olive.Sonnenschein@cbsa-asfc.gc.ca>
Subject: PROTECTED SOLICITOR-CLIENT AND LITIGATION PRIVILEGE

Document protected by solicitor-client or litigation privilege: Do not disclose
Document protégé par le privilège du secret professionnel de l'avocat : ne divulguez pas

Hello Everyone,

Thank you.

Veronica Cham
Counsel | Avocate
Immigration Law Division | Division du droit de l'immigration
Department of Justice Canada | Ministère de la Justice du Canada
Ontario Regional Office | Bureau régional de l'Ontario
130 King Street West, Suite 1900, Box 36 | 130, rue King Ouest, Pièce 1900, C.P. 36
Toronto, Ontario M5X 1K6
vcham@justice.gc.ca
Telephone | Téléphone 416-954-2716
Facsimile | Télécopieur 416-954-8982
Government of Canada | Gouvernement du Canada

From: Ott, Lydia [<mailto:Lydia.Ott@cbsa-asfc.gc.ca>]

Sent: June 22, 2017 2:48 PM

To: Cham, Veronica <Veronica.Cham@justice.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Henry, David <David.Henry@cbsa-asfc.gc.ca>; Desalliers, Natalie: CIC / CIC <natalie.desalliers@cic.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Cc: Sonnenschein, Olive (CBSA) <olive.sonnenschein@cbsa-asfc.gc.ca>

Subject:

Hello,

During my absence Olive Sonnenschein will be your CBSA DLSU contact. During my absence, please ensure to c.c. her on correspondence related to this file.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege

Campbell, Jamison

From: Ducharme, Nyiri
Sent: June 26, 2017 10:51 AM
To: Campbell, Jamison; StMarseille, Richard
Cc: Bosse, Julie
Subject: RE: Follow-up on BN's at MO seeking concurrence with

Hi Jamison,

The 3N was signed by the President and transmitted to MinO on June 16th, but we have not yet received word on the Minister's response. VPO followed-up with PO again this morning on the status but unfortunately there's no news yet.

The BN is with DGO – I have notified them that this one will also need to move up quickly.

I'll keep you updated as we get more information.

Many thanks,
Nyiri

From: Campbell, Jamison
Sent: June 26, 2017 10:43 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: Follow-up on BN's at MO seeking concurrence with :

Good morning, Richard.

Thank you,

Jamison

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

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Agence des Services Frontaliers du Canada/ Gouvernement du Canada
jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

Campbell, Jamison

From: Calma, Gordan
Sent: May 5, 2017 03:44 PM
To: Bosse, Julie; StMarseille, Richard
Cc: Campbell, Jamison; Ismail, Naureen
Subject: Post-disclosure file: Concerns regarding

Importance: High

Hi, Julie and Richard.

I am sending this email to flag a concern with respect to an old and highly litigated file, which is currently at the post-disclosure stage of processing. I have just started reviewing this recommendation as part of the backlog of cases previously submitted to Tracey for managerial review.

Please let us know how you wish to proceed.

Thank you.
Gordan

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

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Agence des services frontaliers du Canada / Gouvernement du Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

Campbell, Jamison

From: Bosse, Julie
Sent: June 1, 2017 12:05 PM
To: Ismail, Naureen; Calma, Gordan; Campbell, Jamison; Hanton, Ashley; Delaney, Irys
Subject: FW: PMA Expectations
Attachments: PMA_2017-18_St Marseille_May2017.docx

Good morning everyone,

Attached is a draft our Director's PMA. Some of his work objectives will have a downstream impact on the work of our unit. This is an opportunity for you to review and provide input.

Please provide your input, if any, by 16:00 today.

Many thanks,

From: StMarseille, Richard
Sent: June 1, 2017 11:44 AM
To: Thrasher, Anne <Anne.Thrasher@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: PMA Expectations

Hi There,

My PMA draft is due to the DG tomorrow – it is attached for your review.

Can you please let me know by morning if you have any feedback as content from this will cascade down into your PMAs/that of your staff etc.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| Commitment | Performance Measure(s) | Status of Deliverables |
|--|---|---|
| To promote a healthy workplace | <ul style="list-style-type: none"> • Support the Agency's mental health strategy, including roll out of mental health training. • Demonstrate leadership in building a healthy, respectful and supportive work environment. • Ensure early intervention and active case management. • Empower employees in the division to raise concerns about organizational health and to suggest improvements at the workplace. | <ul style="list-style-type: none"> • |
| To Build a Diverse Public Service | <p>Identify recruitment and development activities to increase the social and cultural diversity of our workforce, in order to better reflect the population we serve and improve decision making.</p> <p>This includes defining diversity goals with respect to the needs of their own organization, implementing the appropriate recruitment and development activities and measuring progress.</p> | <ul style="list-style-type: none"> • |
| Leadership and Management Commitment: Demonstrate leadership in my everyday actions and in accordance with the behaviours that are | Corporate: <ul style="list-style-type: none"> • Support the CBSA Renewal Initiative. • Support Access to Information Act and Privacy Act, audits, evaluations, or third party reviews • Manage information in compliance with established policies, and procedures, and corporate expectations. | <ul style="list-style-type: none"> • |

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| | | |
|---|--|---|
| <p>expected from me and valued by the CBSA by:</p> <ul style="list-style-type: none"> •Promoting an integrated planning and results-driven culture to optimize financial and human resources, including completion of A-Base Review; •Upholding public sector and CBSA values; and, •Creating and managing talent. | <p>Human Resources:</p> <ul style="list-style-type: none"> • Ensure that performance conversations occur throughout the year, and that all employees on strength and eligible for a performance assessment have: Performance Management Agreements established; Learning Plans completed; mid-year performance reviews; and year-end performance assessments. • Proactively manage human resources by working to establish pools of candidates and evergreen inventories of interested candidates at critical levels to maintain readiness to replace/hire staff on a timely basis as funded vacancies arise. • Foster a learning environment by promoting and making available training and learning activities for staff that are related to their responsibilities, subject to available funding. • Subject to funding and staffing approvals, support student onboarding by: Undertaking a timely hiring process by initiating student hiring process at least 12 weeks prior to the intended start date; welcoming students through orientation mechanisms that will ensure students understand their commitment under the Values and Ethics Code for the Public Sector; and providing meaningful work that allows them to learn and contribute to the objectives of the organization. | |
| | <p>Financial:</p> <p>Remain within approved budget authorities while maintaining a variance of 3% or less between the 2017-2018 P9 forecast and year-end actuals.</p> | <ul style="list-style-type: none"> • |

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| | | |
|--|--|--|
| <p>Individual Commitment #1: Provide leadership in the development of immigration enforcement policies, Cabinet submissions, legislative and regulatory amendments.</p> | <p>Conduct policy studies and develop evidence-based policy proposals/options to modernize the legislative and regulatory framework underpinning the Enforcement and Intelligence programs. This includes:</p> <ul style="list-style-type: none"> • Developing legislative and regulatory amendments associated with sanctions inadmissibility; • Advancing the facilitated enforcement initiative; • Supporting the annual immigration levels plan; • Updating the instrument of delegation and designation for immigration purposes; • Updating the Colour Coded IRPA to reflect new legislative provisions brought into force; • Finalizing regulations for prescribed conditions for security inadmissibility cases; • Finalizing a regulatory and legislative proposal related to minors in detention; • Finalizing a regulatory proposal related to the end of examination for refugee claimants; • Advancing policy options associated with refugee claimants between ports of entry; • Finalizing a regulatory proposal related to closing removal orders; • Finalizing a regulatory proposal to address Standing Joint Committee concerns; • Supporting the passage of the Miscellaneous Statute Law Amendment Act through Parliament; • Supporting the passage of S-226 (Magnitsky Act) through Parliament; | |
|--|--|--|

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| | | |
|---|---|---|
| | Secure funding for Enforcement and Intelligence programs through the development of Treasury Board submissions. This includes: <ul style="list-style-type: none"> • Temporary Foreign Worker Program; • Private Member's Bill S-226; • Refugees Between Ports of Entry | |
| | Support and respond to OGD policy development efforts as they arise. | • |
| Individual Commitment #2: Provide leadership in the development of national security and customs enforcement policies, Cabinet submissions, legislative and regulatory amendments. | Conduct policy studies and develop evidence-based policy proposals/options to modernize the legislative and regulatory framework underpinning the Enforcement and Intelligence programs. This includes: <ul style="list-style-type: none"> • Supporting the passage of the Cannabis Act through Parliament; • Leading the implementation of Cannabis legalization (including AMPS, taxation strategy, port of entry enforcement and compliance; negotiation with law enforcement partners; establishing reporting requirements and monitoring impacts) • Supporting the passage of amendments to Bill C-51 through Parliament; • Supporting policy efforts related to trade-based money laundering and terrorist financing; • Supporting policy efforts related to gender X; • Co-leading efforts related to counterproliferation; • Supporting the development of proposals related to strengthening national security and accountability | • |

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| | | |
|--|--|---|
| | Secure funding for Enforcement and Intelligence programs through the development of Treasury Board submissions. This includes: <ul style="list-style-type: none"> • Cannabis legalization; • Cannabis taxation approach; • Division 9 / Security Certificates renewal | • |
| | Support and respond to OGD policy development efforts as they arise. | • |
| Individual Commitment #3: Provide leadership in the development of briefing products to support DMNS and DMIA | <ul style="list-style-type: none"> • Lead coordination of committee support material on a timely basis; • Develop a proposal to increase the efficiency of committee preparation and explore options to transfer this function elsewhere in the Agency | • |
| Individual commitment #4: Finalize the last remaining information sharing agreement work and wind down of this business activity within the Division. | Finalize the Tuscan MOU Privacy Impact Assessment and transition the file to the Intelligence Program Management Unit. | • |
| | Finalize the response to the Privacy Commissioner on the Federal Bureau of Investigation MOU and transition the file to the relevant Program Management Unit. | |
| | Finalize the MOU with Correctional Services Canada and transition the file to the relevant Program Management Unit. | • |
| Individual commitment #5: Provide leadership in the management of the | Review the organizational structure and develop a Human Resources strategy for the Ministerial Relief Unit. | • |

2017-18 – EX-01 PERFORMANCE AGREEMENT – Richard St Marseille

| | | |
|--|---|---|
| Ministerial Relief case processing function. | Improve overall productivity and throughput of the Ministerial Relief Unit within allocated funding envelope. | • |
| | Monitor the inventory, and endeavour to ensure mandamus-related file timelines are met within allocated funding envelope. | • |

<Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Perfect. Thanks! Given the small number of cases, does anyone have a concern that we could not also have the first interest letter mailed out by the end of April?

From: Hanton, Ashley

Sent: March 16, 2017 12:16 PM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

Yes, 33 is correct. There are also around 9 cases where we have identified that the applicants cannot be located for other immigration processes etc. and which we will probably be able to close later (following an interest letter).

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Calma, Gordan

Sent: March 16, 2017 12:11 PM

To: Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: RE: URGENT: Number of MR cases which can be closed with C-43 regs

I think you are correct. There are around 33 cases that can be immediately closed pursuant to R24.4(b) – this number does not account for the cases that Janis identified (those would probably have to be closed later pursuant to R24.4(a)). Ashley is double-checking right now, so please stand by.

Thx.
Gordan

From: Campbell, Jamison

Sent: March 16, 2017 12:02 PM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>; Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Gloster, Craig <Craig.Gloster@cbsa-asfc.gc.ca>

Subject: Re: URGENT: Number of MR cases which can be closed with C-43 regs

The ones on the look ahead are all cases that we will tackle with our first wave of letters (ie cases that have either been landed by IRCC or are pending landing). I'm not sure what the source of the 42 or 43 cases is but I can assume they include the cases previously identified by Janis as ones where we can't locate the individual. There was an excel sheet created and saved on the shared drive.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Vansickle, Tracey

Sent: Thursday, March 16, 2017 11:50 AM

To: Hanton, Ashley, Calma, Gordon, Ismail, Naureen, Campbell, Jamison, Gloster, Crain
Subject: URGENT: Number of MR cases which can be closed with C-43 regs

Hi folks,

It's been mentioned a few times recently that there are about 42 or 43 cases that can be closed when the regs are in force. There are only 33 cases listed on the Look Ahead. What is the source for the rest of the cases – the old calculations that were done for the inventory that Janis had started? We have to provide a fairly firm number for the President/EVP briefing, so if someone could please confirm asap, that would be helpful.

Thanks.

Bosse, Julie

From: Ismail, Naureen
Sent: May 30, 2017 02:53 PM
To: Bosse, Julie
Subject: RE: MR in NCMS

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Julie!

The NCMS people got back to me today and said that they're not sure if a VRF would even be required for our request, but they're going to consult with ISTB. With respect to funding, they provided the following information:

With the current Service Lifecycle Management Framework (SLMF) process, costing is only provided by ISTB after a Validated Requirement Form (VRF) is submitted for Intake Assessment (IA) and approved by the IA Service Management Committee (SMC) and Service Management Board (SMB), a Business Requirement Document (BRD) and Business Use Case (BUC) are developed and approved at the Business Requirement Review (BRR) SMC and SMB and a Release Proposal is approved at SMC and SMB. Only then ISTB will provide impacts.

I think that means if ISTB says a VRF is needed, they'll want the funding information up front...? I have no idea how anyone keeps up with all the paperwork and acronyms...

In any event, I'll keep you posted ☺

Thanks!! ☺

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Agence des services frontaliers du Canada/ Gouvernement du Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

From: Campbell, Jamison
Sent: May 25, 2017 4:33 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Subject: RE: MR in NCMS

Hi Naureen,

In addition to Julie's comments, I would also say that these changes could also fall under "strengthen organizational resilience." Many of the changes that came with the implementation of the regulations have an impact on inventory management with a view to better allowing us to deal with our current backlog – for example, prescribing when an application may be submitted, and allowing for the closure of applications in certain circumstances. The new regulations

allow the agency to focus resources on processing applications with a founded finding of inadmissibility, rather than was previously the case when an application could be made at any point. Significant financial resources are spared when cases for which relief is no longer needed are closed, rather than processed to completion.

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

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jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

From: Bosse, Julie

Sent: May 25, 2017 4:24 PM

To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>

Subject: RE: MR in NCMS

And we did not get any money with the changes adopted under Bill C-43.

From: Ismail, Naureen

Sent: May 25, 2017 4:23 PM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>

Subject: RE: MR in NCMS

Ohhh, okay, gotcha ☺

Thanks!!

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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From: Bosse, Julie

Sent: May 25, 2017 4:20 PM

To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>; Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>

Subject: RE: MR in NCMS

Actually, this change does not fall under refugee reform, my apology for the oversight. The MR regulations are derived from the legislative authority created under the *Faster Removal of Foreign Criminals Act* (Bill C-43) which came into force in June 2013. Bill C-43 amended the IRPA to clarify that Ministerial relief may be considered via an application.

In my view it should fall under the priority: Secure the border strategically

Funding: Is to be determined once IT has provided costing for change. We don't know yet.

From: Ismail, Naureen

Sent: May 25, 2017 4:05 PM

To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>

Subject: RE: MR in NCMS

Me again! ☺

The NCMS people have responded, and have follow-up questions (yes, I know, I'm a pain...). I'm struggling with two of them (in green, below).

For the first question, I can provide rationale for why the regs CIF date was in March, and I can link it back to the CBSA RPP, but would someone please confirm that the regs were proposed under Refugee Reform 3 (I assume, because from what I know, RR1 was 2010, and RR2 was 2012...)?

For the second question below (re: funding), Julie, at this point, should I just go back to them with "TBD"?

Jamison, I asked about NCMS auto-populating the 30-day no submissions received, they advised we may need to request a JIRA (I have no idea what that is), but they've asked for more information about that as well, to see if it can be included in this change request.

- Which Agency priorities does this change support?

The new MR regulations were proposed under Refugee Reform. Can you please clarify which Ref Ref you are referring to? Ref Ref 3 or another (1 or 2)? And please advise as to why these changes went ahead in March while we understood that there were no changes being/to be done for Ref Ref 3 on CBSA side to date. Also, Which of the Agency's four organizational priorities does this change support? Secure the border strategically; Streamline and simplify the border experience; Advance global border management; or Strengthen organizational resilience.

- Is there a specific project funding this change? If yes, please identify which project and WBS

The change is not anticipated to be costly given that a few additional options need to be added to existing NCMS MR processes. The "File Closed (Other Reasons)" process currently allows for four (4) dispositions, but we would need to add three (3) additional options, and amend one (1) of the existing dispositions. The "Analysis and File Preparation" process currently allows for three (3) dispositions, but we would need to add one (1) additional option. Project funding needs to be confirmed depending on costing. What "Project" would be funding these changes? Or would it be maintenance (A-Base) funding?

They've said that they can likely have a draft VRF ready for review early next week.

Thanks! ☺

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

Conseillère principale en programme – Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada/ Gouvernement du Canada

Bosse, Julie

From: Ismail, Naureen
Sent: May 17, 2017 09:46 AM
To: Calma, Gordan; Campbell, Jamison; Hanton, Ashley; Bosse, Julie; Delaney, Irys
Subject: Another reduction in our Inventory!

Good morning everyone!

Very exciting news – two more file closed letters will be going out today (a gentleman who was found not to be inadmissible, and one who was recently landed), which brings our inventory down to 290!

Ashley and Gordan, I'll update the Monthly Progress Report ☺

Thanks!

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

Bosse, Julie

From: Ismail, Naureen
Sent: May 19, 2017 04:26 PM
To: Bosse, Julie; Hanton, Ashley
Subject: RE: Min relief

Follow Up Flag: Follow up
Flag Status: Flagged

Hello ladies!

I've updated the formulas in the MR regs tracker – please take a look and see if there's anything else we will need to capture. There are some minor changes in logging information that the rest of the team will need to be told about, but we can do that at the next team meeting.

Julie,

Ashley, for the look-ahead, I added a basic "total" on the "Public or Applicant Inquiries" tab for each month, just to save some time when updating 😊

Please let me know if you have any questions or concerns!

Thanks much,

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

From: Bosse, Julie
Sent: May 19, 2017 9:44 AM
To: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Cc: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: RE: Min relief

Yes what we have so far is good but they also want the stats outlined below which in my view relates more to new applications received. % of new applications accepted for processing ; % of new applications returned without processing due to non-compliance with eligibility criteria; % of all cases in inventory withdrawn or deemed abandoned (deemed abandoned would be those who do not reply to the letters.

There is already a table in the regs tracker to track the above, we could create a table to capture all those data on a monthly basis given they wish to have it on the monthly report.

In addition we will continue reporting on the number of cases closed as a result of the transitional provisions, I would keep this data separate.

Many thanks,

From: Hanton, Ashley
Sent: May 19, 2017 9:32 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: RE: Min relief

Hi,

Yes, we have those numbers on the report now. The only thing we might need to clarify is the wording of 5.3 below. We're assuming they want to know how many cases we've closed with any of the provisions under section 24.4, including for reasons other than the application being withdrawn or abandoned (such as if the applicant obtained PR status etc.)? On the Monthly Performance Report we have been listing the overall number of "Cases Closed with MR Regulations", and we have been keeping track of the specific provision under which the application was closed in our more detailed MR Regs Tracker spreadsheet.

Ashley Hanton
Ministerial Relief Unit
613-960-9545

From: Bosse, Julie
Sent: May 19, 2017 9:16 AM
To: Hanton, Ashley <Ashley.Rodger@cbsa-asfc.gc.ca>
Subject: FW: Min relief

Ashley,

I believe we are keeping track on the monthly performance report of all the stats of cases closed as a result of the new regulations, right?

| | | |
|-----|---|-----------------------|
| 5.1 | #/% of new applications accepted for processing | Operational Reporting |
| 5.2 | #/% of new applications returned without processing due to non-compliance with eligibility criteria | Operational Reporting |
| 5.3 | #/% of all cases in inventory withdrawn or deemed abandoned. | Operational Reporting |

From: StMarseille, Richard
Sent: May 19, 2017 9:13 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>

Subject: FW: Min relief

Hi Julie,

Just want to confirm that the regs performance metrics noted below are on the monthly status report template so that it's included in the next one that goes up next week

tkx

Richard St Marseille

a/Director

Policy Division, Enforcement and Intelligence Programs

Programs Branch

Canada Border Services Agency / Government of Canada

Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.

Division des politiques, Programmes d'exécution de la loi et du renseignement

Direction générale des programmes

Agence des services frontaliers du Canada / Gouvernement du Canada

Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Vansickle, Tracey

Sent: March 17, 2017 10:10 AM

To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>

Subject: RE: Min relief

Will do. We were planning to capture those stats anyway.

From: StMarseille, Richard

Sent: March 17, 2017 9:11 AM

To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>

Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>

Subject: FW: Min relief

For your records.

Also, on the regular MR inventory status report that you're going to put together for me, can you please make sure to add the MR regs performance measures that we had committed to back in the day for tracking purposes (the PMF is attached).

I think it would also be good to expand this to add one more measure which would be # of applications closed under the regs, and the reason for closure.

Would like to track this on an ongoing /routine basis so we have a sense of what's working/not as envisioned.

Thanks
Richard

| | | |
|-----|---|-----------------------|
| 5.1 | #/% of new applications accepted for processing | Operational Reporting |
| 5.2 | #/% of new applications returned without processing due to non-compliance with eligibility criteria | Operational Reporting |
| 5.3 | #/% of all cases in inventory withdrawn or deemed abandoned. | Operational Reporting |

Richard St Marseille

a/Director
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Directeur, p.i.
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Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: March 17, 2017 9:05 AM
To: Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>
Cc: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: FW: Min relief

Good Morning,

As requested, here is an update on implementation of the MR regulations and a summary of next steps.

Thanks
Richard

1. Privacy Impact Assessment

- PIA was sent to the Office of the Privacy Commissioner (OPC) for feedback on March 13, 2017.
- **Next Steps:** There is no further action to take on the PIA until we hear back from the OPC

2. Atlas Publication of Field Guidance & Web Publication of Online Form/Guide

- The Operational Bulletins (OBs) for the CBSA and IRCC internal websites have been vetted and translated.
- The online and printable guide which accompanies the application has been vetted by Legal Services, translated, coded and tested, and is otherwise ready to go live, but requires the completion of the application form, to which it is hyperlinked.
- On March 16, 2017, Comptrollership informed that they expect to be finished with the formatting of the application form by end of day Friday March 17, 2017.
- There is a risk that we may be a day or two delayed in web publication due to delays in application form formatting in Comptrollership; this risk is expected to be manageable as the Agency typically receives few MR applications yearly relatively speaking.
- **Next Steps:**
 - Once we have the final form from Comptrollership we will be able to finalize preparations for online publishing of the field guidance and form/guide with e-Communications.
 - Assuming Comptrollership stays on track, we should be positioned to publish CBSA materials on time with the regulations.

3. Notification Letters to Applicants

- Template notification letters have been prepared to cover all types of cases which would be impacted by the regulatory changes (ineligible new applications; regulatory closure of existing files; two confirmations of continued interest, each with 60-day applicant response requirements).
- **Next Steps:** There is no further action to take on this deliverable.

4. Closure of Inventory Files

- We will be using the new authorities to close files in 3 waves.
- **First wave (MR Not Required Authority):**
 - There are 33 cases that have been deemed admissible by IRCC or granted H&C (and therefore no longer require MR to overcome their inadmissibility). These files will be reviewed for any recent status changes, representative and contact information, and will receive the "regulatory closure" letter advising that their file has been closed due to the new regulations. It is expected that this wave will be completed by the end of April 2017.
- **Second wave (Failure to Respond to Request Authority):**
 - There are 9 files identified as having past non-response to CBSA or IRCC requests related to other immigration processes. A "continued interest" letter will be mailed by the end of April 2017. Failing a response within 60 days, a "final interest" letter will be mailed. Failing a response within 60 days, a "regulatory closure" letter will be mailed (in fall 2017) advising that the MR file has been closed.
- **Ongoing Processing Changes:**
 - As new applications are received, they will be reviewed for compliance with the regulations. Those which are not compliant will be returned to the applicant unprocessed in accordance with the regulations.
 - Pending MR files that remain under consideration by IRCC will be monitored in order to close any MR files where the applicant has been granted PR status through another avenue or has been found not to be inadmissible in accordance with the regulations.

- Routinely (e.g. every six months), a new batch of "continued interest" letters will be mailed to applicants for whom it is anticipated that active processing will begin within the next 6-12 months. Failure to respond in accordance with the regulations would result in closure of the file.
- MR inventory tracking tools will be updated in order to be able to measure the impact of the new regulations on MR case processing and inventory management.

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
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Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Lutfallah, Jennifer
Sent: March 13, 2017 12:29 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: RE: Min relief

Sorry March 17

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction générale des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
10028 - 100 Metcalfe
Ottawa Ontario
jennifer.lutfallah@cbsa-asfc.gc.ca
Telephone | Téléphone 613-948-9041 / Facsimile | Télécopieur 613-957-6030 / Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: Lutfallah, Jennifer
Sent: March 13, 2017 12:16 PM
To: StMarseille, Richard
Cc: Byrne, Patrick; Henderson, Lana
Subject: FW: Min relief

Please provide by COB Friday, March 18 2017

Jennifer Lutfallah
Director General | Directrice-générale

Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
Canada Border Services Agency | Agence des services frontaliers du Canada
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Government of Canada | Gouvernement du Canada

From: Hill, PeterD(CBSA)
Sent: March 13, 2017 12:14 PM
To: Lutfallah, Jennifer
Cc: Mousseau, Pauline; Blanchard, NathalieX
Subject: Fw: Min relief

Jennifer -

Note March 22 expected final publication of Min Relief regs.

Grateful for short description of steps for implementation so that I can brief Pres/EVP at our next bilat with Pres/EVP (March 21).

Pauline - plse track.

Thx,
Peter

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Morris, Amanda <Amanda.Morris@cbsa-asfc.gc.ca>
Sent: Monday, March 13, 2017 11:45 AM
To: Mundie, Robert
Cc: Graham, Jason; Blanchard, NathalieX; Bolduc, Martin; Hill, PeterD(CBSA)
Subject: RE: Min relief

I would expect final publication to occur on Wednesday, March 22nd.

Cheers,
Amanda

From: Mundie, Robert
Sent: March 13, 2017 11:40 AM
To: Morris, Amanda <Amanda.Morris@cbsa-asfc.gc.ca>
Cc: Graham, Jason <Jason.Graham@cbsa-asfc.gc.ca>; Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>; Bolduc, Martin <Martin.Bolduc@cbsa-asfc.gc.ca>; Hill, PeterD(CBSA) <Peter.Hill@cbsa-asfc.gc.ca>
Subject: Min relief

Hi Amanda, can you tell us when final pub in the Gazette is expected/scheduled (given approval March 9th?)

Thanks

R

Sent from my BlackBerry 10 smartphone on the Rogers network.

Bosse, Julie

From: Calma, Gordan
Sent: May 17, 2017 10:28 AM
To: Bosse, Julie
Subject: Re: Backgrounder

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Gordan.Calma@cbsa-asfc.gc.ca
Sent: Wednesday, May 17, 2017 10:27 AM
To: Bosse, Julie
Subject: Re: Backgrounder

Hi, Julie.

The organizations are the the file I submitted to you yesterday has this new backgrounder), the and the !

We had an arrangement with two Ops groups to produce backgrounders for us at one point, but their product did not meet our needs. I can't remember what units used to produce these for us off the top of my head, but Jamison would know.

Thx.
G

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Bosse, Julie
Sent: Wednesday, May 17, 2017 8:54 AM
To: Calma, Gordan; StMarseille, Richard
Subject: RE: Backgrounder

Thank you Gordan.

Could you identify to me the three backgrounders that the contract employee has produced? I am interested to see how it differs from the other ones I have seen so far. How was the new standard established?

I will set up a meeting in the coming week. I agree we will need a strategy. I would like to consider if other areas can assist with this activity. We will need to establish a list of organizations for which we require a backgrounder on a priority basis. It may not be feasible to re-write all backgrounders, on the basis of the new standard, in the short/medium future.

Many thanks,

From: Calma, Gordan
Sent: May 16, 2017 4:52 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: RE: Backgrounder

Thank you, Richard. Good timing!

Julie, as discussed, we don't have backgrounders for many of our backlog files in the inventory. The ones that we do have are of varying styles and quality. MRU backgrounders used to be done by FB02s and, at times, FB04s in the unit. In FY 2015-2016, a contract employee (FB04) was hired for a year, but she completed only 3 backgrounders only one of which received Tracey's final approval. The 3 backgrounders produced by the contract employee are by far the most detailed and thorough backgrounders we have ever had, owing primarily to the new standards of quality imposed. Ashley and I will send you the updated version of the backgrounder for approval (the version should be very similar to the one disclosed by Tracey with the recent *mandamus* file), as we do need to include it with a few 'backlog within the backlog' files. Julie, when you are free, Naureen, Jamison, Ashley and I would like to meet with you to discuss the approach/strategy with respect to the remaining backgrounders.

Thank you.
Gordan

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

Conseiller principal en programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

From: StMarseille, Richard
Sent: May 16, 2017 3:57 PM
To: Calma, Gordan <Gordan.Calma@cbsa-asfc.gc.ca>
Cc: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: Backgrounder

Hi Gordan,

I heard back from Tracey and she shouldn't be making any further changes to the backgrounder while she's away – so please work with Julie to finalize and have it 'approved' as needed.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Bosse, Julie

From: Bosse, Julie
Sent: July 12, 2017 12:38 PM
To: Ducharme, Nyiri
Cc: StMarseille, Richard
Subject: FW: MR file backlog
Attachments: MR Applicant Breakdown by Nationality.docx

Hello Nyiri,
Please advise if a docket is necessary for this. Many thanks,

From: Ismail, Naureen
Sent: July 12, 2017 12:37 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: RE: MR file backlog

As requested!

From: Bosse, Julie
Sent: July 12, 2017 12:05 PM
To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: RE: MR file backlog

Yes please thank you Naureen.

From: Ismail, Naureen
Sent: July 12, 2017 12:05 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: RE: MR file backlog

Hi Julie,

This is something that we track in our inventory, so I would be able to put the data together in about a half hour or so – would you like me to proceed?

Thanks!

From: Bosse, Julie
Sent: July 12, 2017 12:02 PM
To: Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>
Subject: FW: MR file backlog
Importance: High

Hello Naureen,

Can you please advise if we can provide the data in a short timeframe?

Many thanks,

From: Ducharme, Nyiri
Sent: July 12, 2017 11:03 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Subject: FW: MR file backlog
Importance: High

Hi Julie, do we have the requested data handy?

Thanks,
Nyiri

From: Byrne, Patrick
Sent: July 12, 2017 11:01 AM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Cc: Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: FW: MR file backlog
Importance: High

Hi Richard,

Please see below. Is this something we're able to provide?

Patrick Byrne

Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

From: Blanchard, NathalieX
Sent: July 12, 2017 10:59 AM
To: Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Cc: Patrice, France <France.Patrice@cbsa-asfc.gc.ca>; Vigliotti, Maria <Maria.Vigliotti@cbsa-asfc.gc.ca>; Carboneau, Alex <Alex.Carboneau@cbsa-asfc.gc.ca>; Remy, Gaelle <Gaelle.Remy@cbsa-asfc.gc.ca>
Subject: FW: MR file backlog
Importance: High

MinO was wondering if we have a breakdown of the MR backlog files by country of origin. Do we have this type of analysis handy?

Let me know.

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada
Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tél.: 613-954-7527

| Nationality (Country of Origin) | Number of MR Applicants |
|---|-------------------------|
| Afghanistan | 1 |
| Algeria | 1 |
| Angola | 5 |
| Belgium | 1 |
| Bolivia | 2 |
| Bosnia & Herzegovina | 1 |
| Brazil | 1 |
| British National overseas (COB Hong Kong) | 1 |
| Burundi | 1 |
| Chile | 1 |
| China | 4 |
| Colombia | 1 |
| Cuba | 4 |
| Democratic Republic of Congo | 2 |
| Djibouti | 1 |
| Egypt | 1 |
| El Salvador | 6 |
| Eritrea | 20 |
| Ethiopia | 10 |
| Federal Republic of Germany | 1 |
| Guatemala | 1 |
| Haiti | 4 |
| Hong Kong | 1 |
| India | 13 |
| Iran | 22 |
| Iraq | 12 |
| Israel | 1 |
| Italy | 4 |
| Ivory Coast | 1 |
| Jordan | 2 |
| Kenya | 1 |
| Latvia | 1 |
| Lebanon | 7 |
| Macedonia | 1 |
| Mexico | 5 |
| Mozambique | 1 |
| Myanmar | 3 |
| Namibia | 1 |
| Nicaragua | 2 |
| Nigeria | 4 |

| Nationality (Country of Origin) | Number of MR Applicants |
|--|-------------------------|
| Pakistan | 53 |
| Palestine | 3 |
| Peru | 2 |
| Philippines | 1 |
| Poland | 2 |
| Republic of Korea | 1 |
| Romania | 1 |
| Russia | 11 |
| Rwanda | 4 |
| Serbia | 3 |
| Somalia | 4 |
| South Africa | 1 |
| Sri Lanka | 24 |
| St Lucia | 1 |
| Stateless | 4 |
| Sudan | 5 |
| Sweden | 1 |
| Taiwan | 1 |
| Tunisia | 1 |
| Turkey | 3 |
| Uganda | 1 |
| Ukraine | 3 |
| United Kingdom | 3 |
| Unknown | 3 |
| United States of America | 3 |
| Uzbekistan | 1 |
| Zimbabwe | 1 |
| Total Number of Applications in Inventory | 293 |

Bosse, Julie

From: Bosse, Julie
Sent: May 25, 2017 01:45 PM
To: StMarseille, Richard
Cc: Ducharme, Nyiri
Subject: RE: REVISED TEXT FOR CCM 1677
Attachments: foraction_Minister_letter_mandamus_unencryptedv2DG.docx

Good afternoon,

I replaced the text under next steps to reflect Jennifer's proposed amendments below and clarify what we are asking.
Many thanks,

From: StMarseille, Richard
Sent: May 25, 2017 12:45 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: Fw: REVISED TEXT FOR CCM 1677

They are not sending the physical docket back, but still want the additional changes to the last page made I mentioned this am.

Can u plz action and flip to me in tracked changes.

Thx

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Blanchard, NathalieX <NathalieX.Blanchard@cbsa-asfc.gc.ca>
Sent: Thursday, May 25, 2017 8:38 AM
To: Lutfallah, Jennifer
Cc: Byrne, Patrick; Henderson, Lana; StMarseille, Richard
Subject: RE: REVISED TEXT FOR CCM 1677

Maybe it is me but it is not clear But OK

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada
Nathaliex.Blanchard@cbsa-asfc.gc.ca /tél.: 613-954-7527

Chief of staff for VP, Programs Branch
Canada Border Services Agency
Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tel: 613-954-7527

From: Lutfallah, Jennifer
Sent: May 25, 2017 8:38 AM

To: Blanchard, NathalieX
Cc: Byrne, Patrick; Henderson, Lana; StMarseille, Richard
Subject: Re: REVISED TEXT FOR CCM 1677

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Blanchard, NathalieX
Sent: Thursday, May 25, 2017 8:31 AM
To: Lutfallah, Jennifer
Cc: Byrne, Patrick; Henderson, Lana; StMarseille, Richard
Subject: RE: REVISED TEXT FOR CCM 1677

But what we ask the Minister to approve?

Nathalie Blanchard

Chef de Cabinet du VP, direction générale des programmes
Agence des services frontaliers du Canada
Nathaliex.Blanchard@cbsa-asfc.gc.ca /tél.: 613-954-7527

Chief of staff for VP, Programs Branch
Canada Border Services Agency
Nathaliex.Blanchard@cbsa-asfc.gc.ca / Tel: 613-954-7527

From: Lutfallah, Jennifer
Sent: May 24, 2017 6:12 PM
To: Blanchard, NathalieX
Cc: Byrne, Patrick; Henderson, Lana; StMarseille, Richard
Subject: REVISED TEXT FOR CCM 1677

Nathalie,
As requested please forward to QA unit the revised text for the Next Steps section

NEXT STEPS

Please note that I am available to discuss, or have CBSA officials brief your staff, at your convenience.

Jennifer Lutfallah
Director General | Directrice-générale
Enforcement and Intelligence Programs | Direction des programmes d'exécution de la loi et du renseignement
Programs Branch | Direction général des programmes
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Government of Canada | Gouvernement du Canada



PROTECTED B - Advice to Minister

For action

MINISTERIAL RELIEF – LETTER CONCERNING *MANDAMUS* LITIGATION

For the Minister

ISSUE

To inform you of a letter that the Ministerial Relief Unit (MRU) has received in which counsel is threatening to seek an order for *mandamus* in the Federal court (FC) if a decision in respect of his client's Ministerial Relief (MR) Application is not rendered by July 1, 2017.

BACKGROUND

There is a backlog of MR cases that has been accumulating for many years. Several factors have contributed to the backlog: court decisions resulting in numerous re-determinations being ordered by the courts or re-assessments and re-disclosures by the MRU in light of the new legal test from the Supreme Court of Canada (SCC) decision in *Agraira*; the greater level of complexity involved in assessing cases as a result of courts' decisions, including the SCC decision in *Agraira*; staffing issues; budget reductions over the past two fiscal years; and a lack of structure surrounding the application process before this was addressed through the creation of regulations that were implemented in March 2017.

On March 16, 2017, the FC issued an unfavorable decision to the Minister in the *Momenzadeh-Tameh mandamus* litigation (ANNEX 2). The Court agreed that there was reasonable justification for the delay between 2008 and the 2013 SCC decision in *Agraira*. However, it found that the delay since June 2013 was not justified in view of all the work that had been done on the applicant's relief application prior to that time.

PROTECTED B - Advice to Minister

Two additional *mandamus* applications were filed at the end of March 2017, subsequent to the *Momenzadeh-Tameh* decision. The MRU expects an increase in *mandamus* litigation as applicants are inquiring about the status of their applications, relying on the *Momenzadeh-Tameh* decision to point out that the delay has been unreasonable in their case. The MRU has received representative forms in three cases indicating that applicants have approached counsel in respect of their MR application. In light of the above considerations, the CBSA, in consultation with DOJ,

CONSIDERATIONS

NEXT STEPS

PROTECTED B - Advice to Minister

John Ossowski
President

ATTACHMENT(S)

- 1.
2. **Summary of *Morteza MOMENZADEH-TAMEH* v MPSEP, 2017 FC 288**

Bosse, Julie

From: Bosse, Julie
Sent: May 25, 2017 11:48 AM
To: Ducharme, Nyiri
Cc: Bourdeau, Susan; Ott, Lydia; StMarseille, Richard
Subject:
Attachments:

Good afternoon Nyiri,

Many thanks,

From: Ott, Lydia
Sent: May 25, 2017 11:12 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Bourdeau, Susan <Susan.Bourdeau@cbsa-asfc.gc.ca>
Subject:

Julie,

Merci,

Lydia

Bosse, Julie

From: Bosse, Julie
Sent: May 18, 2017 11:16 AM
To: Calma, Gordan
Subject: RE: The file you just inquired about

And october 2017 is fine.

From: Calma, Gordan
Sent: May 18, 2017 11:13 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: The file you just inquired about

Hi, Julie. ☺

Re: the file you enquired about:

On April 27, we advised senior management that the file would be submitted to DGO in October 2017. This file will need to be carefully reviewed and may require major rewrites. It was one of the files in Tracey's backlog and it was near the bottom of my list to go through. If you don't want the file to go through me, you may come up with an alternative plan with Jamison and/or Richard.

Thx. ☺
G

Gordan Calma
Senior Program Advisor - Ministerial Relief Unit, Programs Branch
Canada Border Services Agency / Government of Canada
Gordan.Calma@cbsa-asfc.gc.ca / Tel: 613-946-5978 / TTY: 866-335-3237

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Gordan.Calma@cbsa-asfc.gc.ca / Tél: 613-946-5978 / ATS: 866-335-3237

Bosse, Julie

From: Bosse, Julie
Sent: May 5, 2017 08:37 AM
To: StMarseille, Richard
Cc: Ducharme, Nyiri
Subject: RE: The MP email

Thank you Richard, I will incorporate your proposed changes and have the response reviewed by Lesley.

From: StMarseille, Richard
Sent: May 5, 2017 7:43 AM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>
Subject: RE: The MP email

Hi Julie

See my feedback below. I

On the last paragraph – 1

Thx
Richard

From: Bosse, Julie
Sent: May 3, 2017 12:39 PM
To: StMarseille, Richard
Subject: RE: The MP email

Good afternoon Richard,

Bosse, Julie

From: Bosse, Julie
Sent: May 2, 2017 02:47 PM
To: Ismail, Naureen
Subject: RE: The MP email

Thank you Naureen. Leave it with me, I will get back to you shortly. Thank you

From: Ismail, Naureen
Sent: May 2, 2017 12:52 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: The MP email

Hi Julie,

As discussed, the email from the MP below ☺

Please let me know if you have any questions!

Thanks much ☺

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Naureen.Ismail@cbsa-asfc.gc.ca / Tel: 613-941-7598/ TTY: 866-335-3237

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From: sean.casey.C1A@parl.gc.ca [<mailto:sean.casey.C1A@parl.gc.ca>]
Sent: March 30, 2017 1:13 PM
To: CBSA-ASFC_Ministerial_Relief-Exemptions_Ministérielles <Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca>
Subject: MP INQUIRY RE APPLICATION FOR MINISTERIAL RELIEF

Good afternoon,

Bosse, Julie

From: Ismail, Naureen
Sent: May 3, 2017 11:12 AM
To: Bosse, Julie
Subject: Standard responses

Hi Julie!

As discussed, some of our standard paragraphs:

(Applicant)'s MR application is presently in queue to be assigned for processing. Please note that MR applications are generally prioritized in accordance with their year of receipt, though other factors such as changes in jurisprudence/legislation, court-mandated timelines, and re-determination orders may also impact file prioritization. Some older MR cases have been impacted by several of these elements, at times necessitating multiple reassessments.

As you may know, the MR process is necessarily lengthy: MR applications require an in-depth review of a voluminous amount of information and submissions, entail a complex assessment of many factors – potentially including input from external partners – and require a personal decision made by the Minister of Public Safety. Unfortunately, it is not possible at this time to provide an exact timeline as to when you may expect the Minister to render a decision on your pending MR application, but you may expect that it will still be several years before a decision is rendered in your case.

For fairness, please note that the CBSA's recommendation regarding a request for relief will be disclosed to the applicant prior to it being forwarded to the Minister for decision. This step will provide the applicant with the opportunity to respond to any concerns raised by the CBSA and to present further submissions, should they wish to do so.

Please let me know if you have any questions.

Thanks! ☺

Naureen Ismail

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
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Naureen.Ismail@cbsa-asfc.gc.ca / Tél.: 613-941-7598/ ATS: 866-335-3237

Bosse, Julie

From: Soper, Lesley L
Sent: June 9, 2017 04:56 PM
To: StMarseille, Richard
Cc: Lawless, Lynn; Byrne, Patrick; Henderson, Lana; Ducharme, Nyiri; Bosse, Julie
Subject: RE: MInO Request - for approval - Status on Min Relief File -

Approved

From: StMarseille, Richard
Sent: June 9, 2017 4:01 PM
To: Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>
Cc: Lawless, Lynn <Lynn.Lawless@cbsa-asfc.gc.ca>; Byrne, Patrick <Patrick.Byrne@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>; Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>
Subject: MInO Request - for approval - Status on Min Relief File -
Importance: High

Hi Lesley,

Please see request from MINO for an update on an MR file, and draft response.

Kindly confirm approval to release to Ops case management for the Minister's Office.

Thanks
Richard

Richard St Marseille

a/Director
Policy Division, Enforcement and Intelligence Programs
Programs Branch
Canada Border Services Agency / Government of Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tel: 613-954-3923 / TTY: 866-335-3237

Directeur, p.i.
Division des politiques, Programmes d'exécution de la loi et du renseignement
Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Richard.StMarseille@cbsa-asfc.gc.ca / Tél: 613-954-3923 / ATS: 866-335-3237

From: Bosse, Julie
Sent: June 9, 2017 3:56 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_Ministerial_Relief-Exemptions_Ministérielles <Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>
Subject: FW: Status on Min Relief File -

I assume since this is a MINO request you need to approve this answer? Thank you Jamison for drafting this response.

Good afternoon Mr. Brunatti,

Ministerial Relief Unit
Canada Border Services Agency
100 Metcalfe Street, 10th floor
Ottawa, Ontario, Canada K1A 0L8
Fax: (613) 946-5983

or electronically at:

Ministerial Relief.Exemptions Ministerielles@cbsa-asfc.gc.ca.

Best Regards,

Julie Bossé
A/Manager – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
Julie.bosse@cbsa-asfc.gc.ca / Tel: 613-957-0744 / TTY: 866-335-3237

Gestionnaire p.i. programme - Unité de la dispense ministérielle, Direction générale des programmes
Agence des Services Frontaliers du Canada/ Gouvernement du Canada
Julie.bosse@cbsa-asfc.gc.ca / Tél.: 613-957-0744/ ATS: 866-335-3237

From: Case-Management, CBSA-NHQ
Sent: June 9, 2017 12:16 PM
To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>; CBSA-ASFC_Ministerial_Relief-Exemptions_Ministérielles <Ministerial_Relief.Exemptions_Ministerielles@cbsa-asfc.gc.ca>
Cc: Lemieux, Michelle <Michelle.Lemieux@cbsa-asfc.gc.ca>; René de Cotret, Dominique <Dominique.RenedeCotret@cbsa-asfc.gc.ca>
Subject: FW: Status on Min Relief File -
Importance: High

Hello Julie,

Would you provide a response to the request from PS MINO for a status update on the Min Relief application for the following individual:

RE: Name:
UCI:

Please note the BF date is Monday June 12, 2017 by noon.

Thank you and best regards,

Xiaoxue Xiang (shao-shwe shang)
Case Review Unit | Unité de révision des cas
Case Management Division | Division de la gestion de cas
Operations Branch | Direction général des opérations
Canada Border Services Agency | Agence des services frontaliers du Canada
Ottawa, ON, K1A 0L8
xiaoxue.xiang@cbsa-asfc.gc.ca
Telephone | Téléphone 613-941-8459
Facsimile | Télécopieur 613-948-7838
Teletypewriter | Téléimprimeur 1-866-335-3237
Government of Canada | Gouvernement du Canada

From: René de Cotret, Dominique **On Behalf Of** Kramer, Susan
Sent: June 9, 2017 10:19 AM
To: Case-Management, CBSA-NHQ <case-management@cbsa-asfc.gc.ca>
Cc: René de Cotret, Dominique <Dominique.RenedeCotret@cbsa-asfc.gc.ca>; Lemieux, Michelle <Michelle.Lemieux@cbsa-asfc.gc.ca>
Subject: FW: Status on Min Relief File -

Good Morning,

Please prepare a response.

BF: Noon, Monday, June 12, 2017

Thank you,

Dominique René de Cotret

Advisor to the director, Operations Branch
Canada Border Services Agency / Government of Canada

Dominique.RenedeCotret@cbsa.gc.ca / Tel: 613-952-7915

Conseiller à la directrice., Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Dominique.RenedeCotret@cbsa.gc.ca / Tél. : 613-952-7915

From: Brunatti, Andrew

Sent: June 9, 2017 10:13 AM

To: Kramer, Susan <Susan.Kramer@cbsa-asfc.gc.ca>

Cc: Mackenzie, Joey <Joey.Mackenzie@cbsa-asfc.gc.ca>; Cléroux, Julie <Julie.Cleroux@cbsa-asfc.gc.ca>; Bindner, Melissa <Melissa.Bindner@cbsa-asfc.gc.ca>; Rocheleau, Lisa <Lisa.Rocheleau@cbsa-asfc.gc.ca>; Due, Seigfred <Seigfred.Due@cbsa-asfc.gc.ca>; Lemieux, Michelle <Michelle.Lemieux@cbsa-asfc.gc.ca>; René de Cotret, Dominique <Dominique.RenedeCotret@cbsa-asfc.gc.ca>

Subject: FW: Status on Min Relief File -

Hi Susan,

We received a request from MinO for a status update on the Min Relief application for the following individual:

We believe it was submitted in 2014, so it is likely still in que.

Could we get this by Monday COB?

Thanks very much!

Andrew

Bosse, Julie

From: Ducharme, Nyiri
Sent: May 29, 2017 08:49 AM
To: Bosse, Julie
Subject: FW: TASKING - MR Inventory Tracking Report

FYI – not sure if you already have this.

If not, our due dates to DGO are below so please allow 1 day before the deadline for Richard to review (ie. the one for June 1st should come to DO on May 1st).

Thanks,
Nyiri

From: Ducharme, Nyiri
Sent: April 10, 2017 3:29 PM
To: Vansickle, Tracey <Tracey.Vansickle@cbsa-asfc.gc.ca>
Cc: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>; Richard, Jean-Francois <Jean-Francois.Richard@cbsa-asfc.gc.ca>
Subject: FW: TASKING - MR Inventory Tracking Report

Hi Tracey,

Please see tasking below from DGO for MR status reports at the beginning of each month. The information to be included is outlined below.

Please BF each status report to DO on the working day before each deadline (except the first one – for that, please BF to DO by 11am).

Many thanks,
Nyiri

From: Byrne, Patrick
Sent: April 10, 2017 3:15 PM
To: StMarseille, Richard <Richard.StMarseille@cbsa-asfc.gc.ca>
Cc: Ducharme, Nyiri <Nyiri.Ducharme@cbsa-asfc.gc.ca>; Lutfallah, Jennifer <Jennifer.Lutfallah@cbsa-asfc.gc.ca>; Soper, Lesley L <LesleyL.Soper@cbsa-asfc.gc.ca>; Henderson, Lana <Lana.Henderson@cbsa-asfc.gc.ca>
Subject: TASKING - MR Inventory Tracking Report

Hi Richard,

At your last bilat with Jennifer you were asked to provide DGO with a Ministerial relief inventory tracking report on a monthly basis.

The report should include:

- Where in terms of processing the cases are (e.g. which analysts, with manager, with director, released for disclosure etc.); and
- Summary statistics (e.g. total in inventory, how many new applications have been received, and statistics related to performance of the new regulations etc.).

| BF Dates |
|-------------------|
| April 12, 2017 |
| May 1, 2017 |
| June 1, 2017 |
| July 4, 2017 |
| August 1, 2017 |
| September 1, 2017 |
| October 2, 2017 |
| November 1, 2017 |
| December 1, 2017 |

Thank you,

Patrick Byrne

Acting Strategic Advisor, Programs Branch
Canada Border Services Agency / Government of Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tel: 613-952-9081

Conseiller Stratégique Intérimaire, Direction générale des programmes
Agence des services frontaliers du Canada / Gouvernement du Canada
Patrick.Byrne@cbsa-asfc.gc.ca / Tél: 613-952-9081

Bosse, Julie

From: Campbell, Jamison
Sent: May 10, 2017 09:22 AM
To: Bosse, Julie
Cc: Ismail, Naureen; Hanton, Ashley
Subject: RE:

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Julie –

Thanks,

Jamison

Jamison Campbell

Senior Program Advisor – Ministerial Relief Unit, Programs Branch
Canada Border Services Agency/ Government of Canada
jamison.campbell@cbsa-asfc.gc.ca / Tel: 613-954-3858/ TTY: 866-335-3237

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Agence des Services Frontaliers du Canada/ Gouvernement du Canada
jamison.campbell@cbsa-asfc.gc.ca / Tél.: 613-954-3858/ ATS: 866-335-3237

From: Ott, Lydia

Sent: May 9, 2017 3:16 PM

To: Bosse, Julie <Julie.Bosse@cbsa-asfc.gc.ca>

Cc: Henry, David <David.Henry@cbsa-asfc.gc.ca>; Cowman, Kathryn <Kathryn.Cowman@cbsa-asfc.gc.ca>; Campbell, Jamison <Jamison.Campbell@cbsa-asfc.gc.ca>; Ismail, Naureen <Naureen.Ismail@cbsa-asfc.gc.ca>

Subject:

Hi Julie,

I look forward to our discussion on Thursday. If you have any questions, please do not hesitate to contact me.

Thank you,

Lydia Ott
Avocate/Counsel
Services juridiques de l'ASFC/CBSA Legal Services
613-941-7907

PROTÉGÉ: Secret professionnel de l'avocat / PROTECTED: Solicitor – Client Privilege